

CLERK'S RECORD

VOLUME 1 OF 6

TRIAL COURT CAUSE NO: 380-81972-07  
A REINDICTMENT OF NO: 380-82629-06

IN THE 380TH DISTRICT COURT  
OF COLLIN COUNTY, TEXAS,  
HONORABLE CHARLES SANDOVAL JUDGE PRESIDING

KOSOUL CHANTHAKOUMMANE

APPELLANT

VS.

THE STATE OF TEXAS

APPELLEE

FILED IN  
COURT OF CRIMINAL APPEALS  
FEB 26 2008

Louise Pearson, Clerk

APPEALED TO THE  
COURT OF CRIMINAL APPEALS IN AUSTIN, TEXAS

ATTORNEY FOR APPELLANT:

NAME: C WAYNE HUFF

ADDRESS: P O BOX 2334

BOERNE TX 78006-2334

TELEPHONE: (214)803-4127

FAX NO: (830)230-5567

SBOT NO: 10180600

ATTORNEY FOR APPELLEE:

NAME: JOHN R ROACH

ADDRESS: 2100 BLOOMDALE RD

MCKINNEY TX 75069

TELEPHONE: (972) 548-4323

FAX NO: (972) 548-4388

SBOT NO: 90001601

DELIVERED TO THE COURT OF CRIMINAL APPEALS IN AUSTIN, TEXAS  
ON THE 13TH DAY OF FEBRUARY 2008

SIGNATURE OF CLERK: *Carolyn McCarley*

NAME OF CLERK: CAROLYN MCCARLEY

TITLE: DEPUTY CLERK

APPELLATE COURT CAUSE NO. AP-75,794

FILED IN THE COURT OF CRIMINAL APPEALS IN AUSTIN, TEXAS

ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_.

\_\_\_\_\_, CLERK

BY \_\_\_\_\_, DEPUTY

CAUSE NO. 380-81972-07 A REINDICTMENT OF CAUSE NO. 380-82629-06

KOSOUL CHANTHAKOUMMANE

IN THE 1380<sup>TH</sup> JUDICIAL DISTRICT COURT

VS.

OF

THE STATE OF TEXAS

COLLIN COUNTY, MCKINNEY, TEXAS

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380-81972-07 (REINDICTMENT OF 380-82629-06)  
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KOSOUL CHANTHAKOUMMANE  
380-81972-07 (REINDICTMENT OF 380-82629-06)  
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OCTOBER 18 2007 -----1212

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THE STATE OF TEXAS

COUNTY OF COLLIN

IN THE 380TH JUDICIAL DISTRICT COURT OF COLLIN COUNTY, TEXAS THE HONORABLE  
CHARLES SANDOVAL, JUDGE PRESIDING, THE FOLLOWING PROCEEDINGS WERE HELD AND  
THE FOLLOWING INSTRUMENTS AND OTHER PAPERS WERE FILED IN THIS CAUSE,  
TO WIT:

TRIAL COURT CAUSE NO. 380-81972-07 (A REINDICTMENT OF 380-82629-06)

KOSOUL CHANTHAKOUMMANE APPELLANT

VS

THE STATE OF TEXAS      APPELLEE

IN THE 380TH JUDICIAL DISTRICT CO

OF

COLLIN COUNTY, MCKINNEY, TEXAS

REINVESTMENTS OF FIDUCIARY ASSETS FOR 2007-2008

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IN JAIL

CRIMINAL DOCKET

NUMBER OF CASE	NAMES OF PARTIES	ATTORNEYS	OFFENSE
380-81972-07	THE STATE OF TEXAS	DISTRICT ATTORNEY GREG DAVIS CURTIS HOWARD	Capital Murder FX
DATE OF FILING	VS.		
MONTH   DAY   YEAR			
08   21   07	CHANTAKOUMMANE, KCSOUL	STEVEN R. MIEARS ATTORNEY AT LAW P.O. BOX 736 BONHAM, TX 75418 (903) 640-4963	Keith GORE DEFENDANT
DATE OF ORDERS	ORDERS OF COURT		INFORMATION OR INDICTMENT
MONTH   DAY   YEAR			
8   27   07	BOND SET AT \$ 1,000,000.00		
8   27   07	13 men to 2 wash indictment or more for cont.		
8   28   07	1 w/ atty, 1 LA, 1 M, 1 M + Contemner		
	Aggravated. CT denies MFC, CT		
	aggravated state w/ to transfer		
	clayton's 380-8226-06 to		
	this file. CT approve Mierst		
	Don't to represent A in this		
	Case. For		
8   30   07	1 w/ atty + DA. Application to		
	state Governmentally affidavit.		
	1 w/ to charge removed. 1 w/ to		
	1 w/ to charge removed. 1 w/ to		
8   30   07	Order denying in change of name signed. CT		



Kosovul "Kantakal" Commence

DATE OF ORDERS

380-81972-07

MO.	DAY	YR.	
8	30	07	Order denying constitutional challenge & stay on writs is signed. (Pr
9	7	07	General (Vair Dine) 33 Jury Panel Scheduled individual Voir Dine for 1st Week Delay Trial
9	10	07	Begin individual Voir Dine Case called for announcement state announced ready and defense announced not ready. Court proceeded with the Voir Dine Jurors 1-7
9	11	07	It proceeded with individual Voir Dine Jurors 8-14
9	12	07	It proceeded with individual Voir Dine Jurors 15-21
9	13	07	It proceeded with individual Voir Dine Jurors 22-30
9	14	07	It proceeded with individual Voir Dine Jurors 31-37
9	20	07	It proceeded with individual Voir Dine Jurors 38-45
9	21	07	It proceeded with individual Voir Dine Jurors 46-53
9	24	07	It proceeded with individual Voir Dine Jurors 54-62
9	25	07	It proceeded with individual Voir Dine Jurors 63-71
9	26	07	It proceeded with individual Voir Dine Jurors 72-89
9	27	07	It proceeded with individual Voir Dine Jurors 90-104 & 77
9	28	07	It proceeded with individual Voir Dine Jurors 105-115 & 102
10	1	07	It proceeded with individual Voir Dine Jurors 116-126
10	2	07	It proceeded with individual Voir Dine 127-128 Jurors and 2 defendants Jurors selected

Delay Trial

CRIMINAL DOCKET

Page 2 -

NUMBER OF CASE	NAMES OF PARTIES	DISTRICT ATTORNEY	ATTORNEYS	OFFENSE
380-81972-07	THE STATE OF TEXAS			Capital Murder FX
DATE OF FILING	VS.			
MONTH   DAY   YEAR				
08   21   07	CHANTHAKOUMMANE KOSOUL		MIEARS STEVEN R. STEVEN R. MIEARS P.O. BOX 736 BONHAM, TX 75418 (903) 640-4963	DEFENDANT
DATE OF ORDERS	ORDER# OF COURT			INFORMATION OR INDICTMENT
MONTH   DAY   YEAR				
10   4   07	A w/ attorney and DA on August			
	hearing testimony. A motion			
	denied. Was			
10   8   07	D w/ attorney and DA jury sworn.			
	questioned. Indictment read.			
	D reads M.D. Was sworn. State			
	attorney. Daper testimony. Recross to			
	10/9/07. Was.			
10   9   07	Reconvene. Testimony. State recs			
	Agents. Both close. Recross to			
	10/10/07 at 9:00 a.m. Was			
10   10   07	Chambers conference. Reconvene			
	Aggregating to charge overruled			
	Chambers read. Arguments.			
	Jury deliberate at 10:30 a.m.			

MO.	DAY	YR.	Notes
			my return w/ verdict at 10:25 Verdict read & accepted. Return to 10/11/07 at 9:00 a.m.
10	11	07	Reconvene. <sup>on</sup> <del>after</del> testimony. Hale sept. Return to 10/12/07 at 1:30 p.m. On
10	12	07	Reconvene. Offer evidence. Testimony. Return to 10/15/07 at 9:00 a.m. On
10	15	07	Reconvene. Testimony. Return to 10/16/07. On
10	16	07	Reconvene. Testimony. Return to 10/17/07. On
10	17	07	Verdict to child. Reconvene. Jury charged dead. Jury begins deliberating at 11:40 a.m. On at 1 before David. Return to court for appeal. Ct appears. Calling himself in. David appeal. Ct pronounced sentence. On death
10	18	07	Admonition of conviction issued. On
10	22	07	Court David. Return to judge. Return day of trial to handle death appeal. On

Page 3 -

ORDERS OF COURT  
Order app't App Attys issued. Jms

DEFENDANT CHANTHAKOUMMANE, KOSOUL CHARGE CAP/MURDER  
ADDRESS 3613 FRANKFORD #223 DALLAS TX 75287 CAUSE# 380-81972-02  
DESCRIPTION A/M, 5'8, 180, BLK/BRO, 10-11-80 AGENCY/# MCK 06-34122  
ARREST INFORMATION 9-6-06 ON W219-09052006-1  
C/C RE-INDICTMENT OF 380-82629-06 witness: K. ADLEY

**TRUE BILL OF INDICTMENT**

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS: The Grand Jury of Collin  
County, State of Texas, duly organized at the JULY Term, A.D., 2007 of the 380th

District Court of said county, in said court at said term, do present that \_\_\_\_\_

KOSOUL CHANTHAKOUMMANE HEREINAFTER CALLED DEFENDANT

on or about the 8TH day of JULY A.D. 2006, in said county and State, did then and there

intentionally and knowingly cause the death of Sarah Walker, an individual, hereinafter called deceased, by stabbing and cutting deceased with a knife, a deadly weapon, and by stabbing and cutting deceased with an object, a deadly weapon, whose exact nature and identity is unknown to the grand jurors, and by striking deceased with a plant stand, a deadly weapon, while the defendant was in the course of committing or attempting to commit the offense of robbery of deceased;

against the peace and dignity of the State.

**FILED**

07 AUG 21 PM 5: 52

HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY [Signature] DEPUTY

[Signature]  
Foreman of the Grand Jury

IN THE 380th DISTRICT COURT OF COLLIN COUNTY, TEXAS  
Criminal Cause Number 380-81972-07

THE STATE OF TEXAS  
vs  
KOSOUL CHANTHAKOUMMANE

CAPIAS IN FELONY CASE

The State of Texas, to Any Sheriff of the State of Texas, GREETING:

You are hereby commanded to arrest

KOSOUL CHANTHAKOUMMANE  
3613 FRANKFORD 223  
DALLAS, TX 75287- 0000

HGT/508 EYE/BRO RAC/A SEX/M  
DOB/101180

and him safely keep so that you have him before the 380th District Court of Collin County, in said state, at the courthouse of said county, in the city of McKinney, forthwith, then and there to answer the State of Texas upon an indictment pending in said court, charging him with Capital Murder FX.  
Date of Offense 07/08/06.

Herein fail not, but due return make hereof to this court, forthwith.

Witness my signature and official seal on this the 27<sup>th</sup> day of August AD 2007.

Signed the 27 day of August, 2007.  
Charles Sandora  
Judge Presiding

HANNAH KUNKLE  
Clerk of the District Courts  
Collin County, Texas

by Suzanne Dain  
Deputy

The amount of bond fixed by the court in this case is \$ 1,000,000.00

SHERIFF'S RETURN

Came to hand \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M,  
and executed the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M,  
by arresting the within named KOSOUL CHANTHAKOUMMANE and  
\*placing him in jail at \_\_\_\_\_  
\*accepting his bond.

\_\_\_\_\_  
Constable or Sheriff

\_\_\_\_\_  
County, Texas

by \_\_\_\_\_ Deputy

\* strike one according to facts

B. Hill

8.27.07

12:40 KO

IN THE 380th DISTRICT COURT OF COLLIN COUNTY, TEXAS  
Criminal Cause Number 380-81972-07

THE STATE OF TEXAS  
vs  
KOSOUL CHANTHAKOUMMANE

CAPIAS IN FELONY CASE

The State of Texas, to Any Sheriff of the State of Texas, GREETING:

You are hereby commanded to arrest

KOSOUL CHANTHAKOUMMANE  
3613 FRANKFORD 223  
DALLAS, TX 75287- 0000

HGT/508 EYE/BRO RAC/A SEX/M  
DOB/101180

and him safely keep so that you have him before the 380th District Court of Collin County, in said state, at the courthouse of said county, in the city of McKinney, forthwith, then and there to answer the State of Texas upon an indictment pending in said court, charging him with Capital Murder FX.  
Date of Offense 07/08/06.

Herein fail not, but due return make hereof to this court, forthwith.

Witness my signature and official seal on this the 27<sup>th</sup> day of

August AD 2007.  
Signed the 27<sup>th</sup> day of August, 2007.

Chuck Anderson  
Judge Presiding

HANNAH KUNKLE  
Clerk of the District Courts  
Collin County, Texas

by Suzanne Dain  
Deputy

The amount of bond fixed by the court in this case is \$ 1,000,000.00

SHERIFF'S RETURN

Came to hand 27<sup>th</sup> day of August, 2007, at 1250 o'clock P.M,  
and executed the 27<sup>th</sup> day of August, 2007, at 100 o'clock P.M,  
by arresting the within named KOSOUL CHANTHAKOUMMANE and  
\*placing him in jail at Collin County  
\*accepting his bond.

T. Box  
Constable or Sheriff

Collin County, Texas

B. Thornhill, Lt. Deputy

FILED

07 AUG 27 PM 2:12

HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS

BY [Signature] DEPUTY



RECEIVED

07 AUG 28 PM 12:50

SHERIFF  
COLLIN COUNTY

\* strike 2 according to facts

IN THE 380th DISTRICT COURT OF COLLIN COUNTY, TEXAS  
Criminal Cause Number 380-81972-07

THE STATE OF TEXAS

vs

KOSOUL CHANTHAKOUMMANE

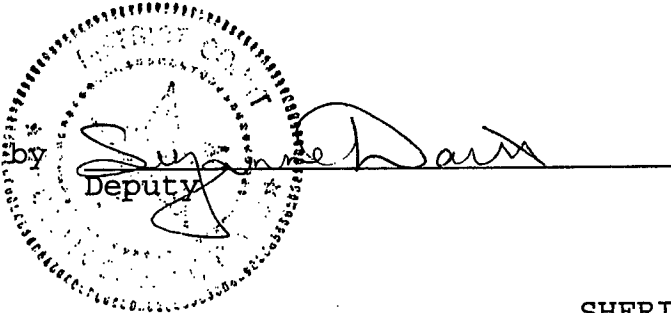
PRECEPT TO SERVE COPY OF INDICTMENT

To the Sheriff of Collin County, Texas - GREETINGS:

You are hereby commanded to immediately deliver to  
KOSOUL CHANTHAKOUMMANE, a prisoner in your custody, the  
accompanying Certified Copy of Indictment in cause 380-81972-07.

Witness my signature and seal of office on this 27<sup>th</sup> day of  
August AD 2007.

HANNAH KUNKLE  
Clerk of the District Courts  
Collin County, Texas



SHERIFF'S RETURN

Came to hand 27 day of August, 2007, at 1255 o'clock PM,  
and executed the 27 day of August, 2007, at 100 o'clock PM,  
by delivering to the within named KOSOUL CHANTHAKOUMMANE, a  
prisoner in my custody, in person, a Certified Copy of Indictment  
mentioned with, and delivered to me with this writ.

Returned on this 27 day of August AD 2007.

TERRY BOX  
Sheriff,  
Collin County, Texas

by B. Shorhill, Lt  
Deputy #401

FILED

07 AUG 27 PM 2:12

HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY \_\_\_\_\_ DEPUTY

RECEIVED  
07 AUG 27 PM 12:55  
SHERIFF  
COLLIN COUNTY



Authorization for WARRANT CANCELLATION

Defendant Name: CHANTHAKOUMMANE KOSOUL

Offense: Capital Murder  
CAPIAS

FX

Cause Number: 380-81972-07

Talked to: \_\_\_\_\_

I, the undersigned authority, do hereby authorize the cancellation of the warrant on the above named defendant, this the 27th day of August, 2007.

HANNAH KUNKLE

by: \_\_\_\_\_

SYLVIA GREER  
District Clerk, Collin County, Texas

OFFICE

CAUSE NO. 380-81972-07

THE STATE OF TEXAS	*	IN THE 380TH DISTRICT COURT
	"	
VS.	*	OF
	"	
KOSOUL CHANTHAKOUMMANE		COLLIN COUNTY, TEXAS

**DEFENDANT'S MOTION TO QUASH THE INDICTMENT OR IN THE  
ALTERNATIVE FIRST MOTION FOR CONTINUANCE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the Defendant, by and through his attorneys of record, and pursuant to the 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendments to the United States Constitution, Article 1, Sections 3, 10, 13, 19 and 29 of the Texas Constitution, Articles 1.05, 1.06 and 1.09 of the Texas Code of Criminal Procedure and moves the Court to quash the indictment herein, or in the alternative continue the trial setting in this cause. A continuance is requested pursuant to the guarantee of due process and the effective assistance of counsel, and pursuant to Art. 29.03 C.C.P. and in support thereof would show the Court the following:

I.

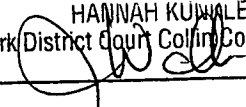
1. This capital murder case wherein the state is seeking the death penalty was previously indicted on September 21, 2006 under cause number 380-82629-06.

2. Jury trial was scheduled to commence on August 31, 2007.

3. On August 21, 2007 the State re-indicted the case under the above cause number pending

**DEFENDANT'S MOTION TO QUASH THE INDICTMENT OR IN THE ALTERNATIVE FIRST MOTION FOR CONTINUANCE**

Page 1 of 6

FILED  
AUG 27 2007  
HANNAH KUWALE  
Clerk District Court Collin County, Texas  
By 

allegations of two additional alternative manner and means of defendant allegedly causing the death of Sarah Walker.

II.

**DEATH IS DIFFERENT**

1. The Defendant has been indicted by the county grand jury for the offense of capital murder.
2. The State is seeking the death penalty. The Eighth Amendment to the United States Constitution requires a greater degree of accuracy and fact finding than would be true in a non-capital case. *Gilmore v. Taylor*, 508 U.S. 333, 113 S.Ct. 2112, 124 L. Ed.2d 306 (1993), and *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976).

III.

The Defendant moves the Court to Quash the indictment herein, or in the alternative, to continue this cause for trial for the below listed reasons:

1. The Defendant has neither been served with a certified copy of the indictment in violation of Article 25.01 C.C.P., nor has a return of the indictment been filed pursuant to 25.02 C.C.P..
2. The Defendant has not been arraigned on the new indictment pursuant to Chapter 26 C.C.P.
3. The Defendant has not been appointed counsel on the new indictment pursuant to Chapter 26 C.C.P.
4. The Defendant will not be allowed “ten entire days” pursuant to Article 27.11 to file written pleadings in answer to the indictment, or ten days to file written pleadings after service of the indictment pursuant to Article 27.12.

5. The defendant has not been allowed sufficient time to file pretrial pleadings as allowed for under 28.01 C.C.P.

6. The defendant has not been furnished with a list of prospective jurors summoned in response to the new indictment in violation of Chapter 34 C.C.P.

7. The defendant has not been allowed sufficient time to investigate and challenge the formation of the Grand Jury returning the new indictment as provided under Art. 19 of the C.C.P., or investigate and challenge the exercise of such Grand Jury's duties and powers as provided by Art. 20 C.C.P..

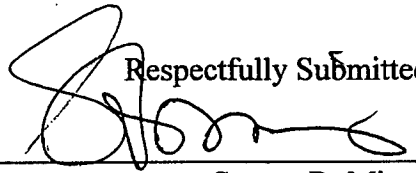
8. The Defendant is surprised by the allegations contained in the new indictment which aver that the cause of death of Ms. Walker was either by a means unknown to the grand jurors, or that death was caused by "striking her with a plant stand, a deadly weapon."

The defendant would show that his defense has been prepared on the assumption the state was going to attempt to prove that the cause of death was by "stabbing and cutting deceased with a knife, a deadly weapon." This preparation included the defendant's filing of pretrial motions, the development of trial strategy, and the securing of certain experts including a forensic pathologist. The defendant has not had sufficient time to investigate the new theories of the State concerning the cause of death in order to secure appropriate experts to investigate these allegations.

Defendant requests that the Court make findings of fact and conclusions of law regarding this motion.

WHEREFORE PREMISES CONSIDERED, Defendant prays that relief be granted as prayed for herein.

Respectfully Submitted,



Steven R. Mears

Lawyer

P.O. Box 736

Bonham, Texas 75418

SBOT#14025600

903-640-4963

Fax: 903-640-4964

StevenMears@msn.com

**VERIFICATION**

**STATE OF TEXAS**

§

§

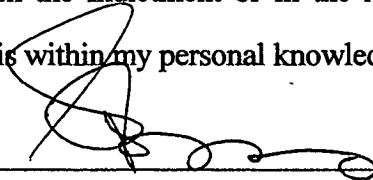
**COUNTY OF FANNIN**

§

ON THIS DAY personally appeared STEVEN R. MIEARS, who, after being placed under oath, stated the following:

"My name is STEVEN R. MIEARS and I am the attorney of record for KOSOUL CHANTHAKOUMMANE and have been so at all material times relevant to this proceeding.

"I have read the Motion to Quash the Indictment or in the Alternative First Motion for Continuance and every statement is within my personal knowledge and is true and correct."



STEVEN R. MIEARS

Sworn to and subscribed before me on the 24<sup>th</sup> day of August, 2007.

 Pam Durham  
NOTARY PUBLIC

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing pleading was hand-delivered to the offices of the Collin County Attorney on the 27<sup>th</sup> day of August, 2007.



Steven Miears

### FIAT

A hearing on the foregoing motion is set for the 30 day of August, 2007, at 9 o'clock A.m. in the courtroom of the 380<sup>th</sup> Judicial District Court, Collin County Courthouse, McKinney, Texas.



Judge Presiding

**CAUSE NO. 380-81972-07**

<b>THE STATE OF TEXAS</b>	<b>*</b>	<b>IN THE 380TH DISTRICT COURT</b>
	<b>"</b>	
<b>VS.</b>	<b>*</b>	<b>OF</b>
	<b>"</b>	
<b>KOSOUL CHANTHAKOUMMANE</b>		<b>COLLIN COUNTY, TEXAS</b>

**ORDER ON DEFENDANT'S MOTION TO QUASH AND MOTION FOR CONTINUANCE**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2007, came on to be heard the above-entitled motion.

After consideration the court hereby:

GRANTS THE MOTION.

DENIES THE MOTION.

SO ORDERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

---

JUDGE PRESIDING

NO. 380-81972-07

STATE OF TEXAS

vs.

KOSOUL CHANTHAKOUMMANE

§  
§  
§  
§  
§

IN THE DISTRICT COURT

380TH JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

**MOTION FOR JURY SHUFFLE**

**TO THE HONORABLE JUDGE OF SAID COURT:**

Now comes KOSOUL CHANTHAKOUMMANE, Defendant, in the above styled and numbered cause, and before voir dire has commenced, and moves that the jury panel be shuffled pursuant to Article 35.11 of the Texas Code of Criminal Procedure.

Respectfully submitted,

Steven R. Miears, P.C.  
211 N. Main  
Bonham, Texas 75418  
Tel: (903) 640-4963  
Fax: (903) 640-4964

By: \_\_\_\_\_

STEVEN R. MIEARS  
State Bar No. 14025600  
Attorney for Kosoul Chanthakoummane

**CERTIFICATE OF SERVICE**

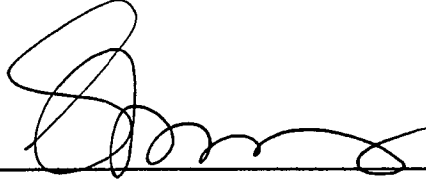
This is to certify that on August <sup>30</sup>~~29~~, 2007, a true and correct copy of the above and foregoing document was served on the District Attorney's Office, Collin County, Texas, by certified mail.

**MOTION FOR JURY SHUFFLE** - Page 1

*Filed 8/30/07  
at 11:00 a.m.  
CME*



document was served on the District Attorney's Office, Collin County, Texas, by certified mail, return receipt requested.



STEVEN R. MIEARS

**ORDER FOR A SETTING**

On \_\_\_\_\_, 2007, the Defendant filed a Motion for Jury Shuffle. The Court finds that the party is entitled to a hearing on this matter, and it is THEREFORE ORDERED that a hearing on this motion is set for \_\_\_\_\_, 2007 at \_\_\_\_ .m.

Signed on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
JUDGE PRESIDING

NO. 380-81972-07

STATE OF TEXAS

vs.

KOSOUL CHANTHAKOUMMANE

§  
§  
§  
§  
§

IN THE DISTRICT COURT

380TH JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

**ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_ 2007, came on to be considered  
KOSOUL CHANTHAKOUMMANE's Motion for Jury Shuffle, and said motion is hereby

(Granted) (Denied)

---

JUDGE PRESIDING

# U.S. Census Bureau

## State & County QuickFacts

### Collin County, Texas

People QuickFacts	Collin County	Texas
Population, 2006 estimate	698,851	23,507,783
Population, percent change, April 1, 2000 to July 1, 2006	42.1%	12.7%
Population, 2000	491,675	20,851,820
Persons under 5 years old, percent, 2005	7.8%	8.2%
Persons under 18 years old, percent, 2005	27.6%	27.7%
Persons 65 years old and over, percent, 2005	6.1%	9.9%
Female persons, percent, 2005	49.8%	50.2%
White persons, percent, 2005 (a)	81.3%	83.2%
Black persons, percent, 2005 (a)	6.9%	11.7%
American Indian and Alaska Native persons, percent, 2005 (a)	0.5%	0.7%
Asian persons, percent, 2005 (a)	9.5%	3.3%
Native Hawaiian and Other Pacific Islander, percent, 2005 (a)	0.1%	0.1%
Persons reporting two or more races, percent, 2005	1.7%	1.1%
Persons of Hispanic or Latino origin, percent, 2005 (b)	12.8%	35.1%
White persons not Hispanic, percent, 2005	69.0%	49.2%
Living in same house in 1995 and 2000, pct 5 yrs old & over	38.1%	49.6%
Foreign born persons, percent, 2000	13.3%	13.9%
Language other than English spoken at home, pct age 5+, 2000	18.5%	31.2%
High school graduates, percent of persons age 25+, 2000	91.8%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	47.3%	23.2%
Persons with a disability, age 5+, 2000	51,910	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	28.4	25.4
Housing units, 2005	250,452	9,026,011
Homeownership rate, 2000	68.6%	63.8%
Housing units in multi-unit structures, percent, 2000	27.8%	24.2%
Median value of owner-occupied housing units, 2000	\$155,500	\$82,500

Households, 2000	181,970	7,393,354
Persons per household, 2000	2.68	2.74
Median household income, 2004	\$75,709	\$41,645
Per capita money income, 1999	\$33,345	\$19,617
Persons below poverty, percent, 2004	5.5%	16.2%

<b>Business QuickFacts</b>	<b>Collin County</b>	<b>Texas</b>
Private nonfarm establishments, 2004	14,297	491,092 <sup>2</sup>
Private nonfarm employment, 2004	228,523	8,118,483 <sup>2</sup>
Private nonfarm employment, percent change 2000-2004	24.7%	1.1% <sup>2</sup>
Nonemployer establishments, 2004	54,918	1,581,734 <sup>1</sup>
Total number of firms, 2002	54,814	1,734,509
Black-owned firms, percent, 2002	3.0%	5.1%
American Indian and Alaska Native owned firms, percent, 2002	1.0%	0.9%
Asian-owned firms, percent, 2002	6.7%	4.5%
Native Hawaiian and Other Pacific Islander owned firms, percent, 2002	F	0.1%
Hispanic-owned firms, percent, 2002	5.7%	18.4%
Women-owned firms, percent, 2002	29.7%	27.0%
Manufacturers shipments, 2002 (\$1000)	4,459,062	310,815,965
Wholesale trade sales, 2002 (\$1000)	14,503,286	397,405,111
Retail sales, 2002 (\$1000)	8,086,129	228,694,755
Retail sales per capita, 2002	\$14,214	\$10,528
Accommodation and foodservices sales, 2002 (\$1000)	896,556	29,914,774
Building permits, 2005	13,844	210,611
Federal spending, 2004 (\$1000)	1,674,560	141,858,480 <sup>2</sup>

<b>Geography QuickFacts</b>	<b>Collin County</b>	<b>Texas</b>
Land area, 2000 (square miles)	847.56	261,797.12
Persons per square mile, 2000	579.8	79.6
FIPS Code	085	48
Metropolitan or Micropolitan Statistical Area	Dallas-Fort Worth-Arlington, TX Metro Area	

1: The 2004 Nonemployer totals may be low due to late tax reporting in hurricane-impacted counties/regions in Alabama, Florida, Louisiana, Mississippi, and Texas.

2: Includes data not distributed by county.

- (a) Includes persons reporting only one race.
- (b) Hispanics may be of any race, so also are included in applicable race categories.

D: Suppressed to avoid disclosure of confidential information  
F: Fewer than 100 firms  
FN: Footnote on this item for this area in place of data  
NA: Not available  
S: Suppressed; does not meet publication standards  
X: Not applicable  
Z: Value greater than zero but less than half unit of measure shown

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, Census of Population and Housing, Small Area Income and Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits, Consolidated Federal Funds Report  
Last Revised: Monday, 07-May-2007 09:36:25 EDT

**CAUSE NUMBER 380-81972-07**

**THE STATE OF TEXAS**

**V.**

**KOUSOUL CHANTHAKOUMMANE**

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§  
§

**IN THE DISTRICT COURT**

**OF COLLIN COUNTY**

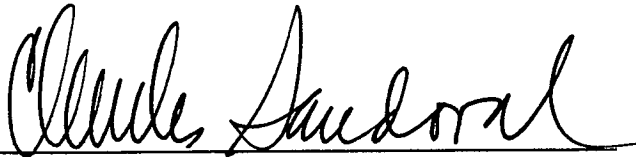
**380<sup>TH</sup> DISTRICT COURT**

**ORDER**

On August 30, 2007, the court heard the defendant's motion for change of venue.

The court being advised in the same, said motion is denied.

Signed this 30<sup>th</sup> day of August, 2007.

A handwritten signature in black ink, appearing to read "Claude Audon", written over a horizontal line.

Judge Presiding

CAUSE NUMBER 380-81972-07

THE STATE OF TEXAS

V.

KOUSOUL CHANTHAKOUMMANE

§  
§  
§  
§  
§

IN THE DISTRICT COURT


OF COLLIN COUNTY

380<sup>TH</sup> DISTRICT COURT

**ORDER**

The court having heard the evidence and arguments of counsel in the pretrial motions here and the court having made certain rulings on the record. It is ordered that Defendant's motions numbered forty-three (43) through seventy-six (76) are denied.

Signed this 30<sup>th</sup> day of August, 2007.

A handwritten signature in black ink, appearing to read "Charles Sandora", written over a horizontal line.

Judge Presiding

NO. 380-81972-07

STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	
vs.	§	380TH JUDICIAL DISTRICT
	§	
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

**AGREED MOTION TO ELECTRONICALLY SCAN JUROR QUESTIONNAIRES****TO THE HONORABLE JUDGE OF SAID COURT:**

Now comes the STATE by and through its attorney of record, and KOSOUL CHANTHAKOUMMANE, Defendant, in the above styled and numbered cause, and move that the juror questionnaires be electronically scanned and in support thereof, would show the court the following:

1.

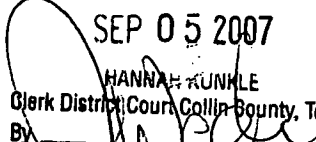
In order to prepare for voir dire, it will be necessary to distribute copies of the juror questionnaires to each member of the prosecuting team and the defense team. Electronically scanning the juror questionnaires to CD's and distributing the CD's to each member of the prosecuting team and the defense team will be more economical than producing hard copies of the questionnaires.

Additionally, electronically scanned juror questionnaires will be less burdensome during voir dire.

2.

The electronically scanned juror questionnaires will not be dissimilated to anyone other than the members of the prosecuting team and the defense team. Upon conclusion of voir dire,

**MOTION TO ELECTRONICALLY SCAN JUROR QUESTIONNAIRES** Page 1**FILED****M**

SEP 05 2007  
HANNAH KUNKLE  
Clerk District Court Collin County, Texas  
By 



all electronically scanned copies of the juror questionnaires will be destroyed by the prosecuting team and the defense team.

**WHEREFORE, PREMISES CONSIDERED,** the State and the Defendant pray that the Court order that the juror questionnaires be electronically scanned for the use of the prosecuting team and the defense team during voir dire.

**Respectfully submitted,**

Steven R. Miears, P.C.  
211 N. Main  
Bonham, Texas 75418  
Tel: (903) 640-4963  
Fax: (903) 640-4964

By: 

**STEVEN R. MIEARS**  
State Bar No. 14025600  
Attorney for Kosoul Chanthakoummane

**AGREED:** 

**GREGORY S. DAVIS**  
First Assistant District Attorney  
Collin County

**CERTIFICATE OF SERVICE**

This is to certify that on September 4, 2007 a true and correct copy of the above and foregoing document was served on the District Attorney's Office, Collin County, Texas, by hand-delivery or facsimile.

A handwritten signature in black ink, appearing to read 'Steven R. Mears', is written over a horizontal line.

STEVEN R. MIEARS

NO. 380-81972-07

STATE OF TEXAS

vs.

KOSOUL CHANTHAKOUMMANE

§ IN THE DISTRICT COURT  
§  
§ 380TH JUDICIAL DISTRICT  
§  
§ COLLIN COUNTY, TEXAS

**ORDER**

On the \_\_\_\_\_ day of September 2007, came on to be considered the Agreed  
Motion to Electronically Scan Juror Questionnaires. The same is hereby:

\_\_\_\_\_ GRANTED; and it is Ordered that the juror questionnaires in this  
case be electronically scanned and distributed to the members of  
the prosecuting team and the defense team.

\_\_\_\_\_ DENIED.

---

JUDGE PRESIDING

**THE STATE OF TEXAS**

**VS.**

**KOSOUL CHANTHAKOUMMANE**

**\* IN THE 380TH DISTRICT COURT**

**"**

**\* OF**

**" COLLIN COUNTY, TEXAS**

**FILED**  
cause **At** Number, adding **M**  
TION FOR CONTINUANCE  
SEP 07 2007  
HANNAH KUNKLE  
Clerk District Court Collin County, Texas  
By \_\_\_\_\_

allegations of two additional alternative manner and means of defendant allegedly causing the death of Sarah Walker.

## II.

### **DEATH IS DIFFERENT**

1. The Defendant has been indicted by the county grand jury for the offense of capital murder.
2. The State is seeking the death penalty. The Eighth Amendment to the United States Constitution requires a greater degree of accuracy and fact finding than would be true in a non-capital case. *Gilmore v. Taylor*, 508 U.S. 333, 113 S.Ct. 2112, 124 L. Ed.2d 306 (1993), and *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976).

## III.

The Defendant moves the Court to Quash the indictment herein, or in the alternative, to continue this cause for trial for the below listed reasons:

1. The Defendant has not been arraigned on the new indictment pursuant to Chapter 26 C.C.P.
2. The Defendant has not had appointed counsel on the new indictment pursuant to Chapter 26 C.C.P. for more than 10 days.
3. The Defendant will not be allowed “ten entire days” pursuant to Article 27.11 to file written pleadings in answer to the indictment, or ten days to file written pleadings after service of the indictment pursuant to Article 27.12.
4. The defendant has not been allowed sufficient time to file pretrial pleadings as allowed for under 28.01 C.C.P.

5. The defendant has not been furnished with a list of prospective jurors summoned in response to the new indictment in violation of Chapter 34 C.C.P. A special venire has not been summoned pursuant to the new indictment.

6. The defendant has not been allowed sufficient time to investigate and challenge the formation of the Grand Jury returning the new indictment as provided under Art. 19 of the C.C.P., or investigate and challenge the exercise of such Grand Jury's duties and powers as provided by Art. 20 C.C.P..

7. The Defendant is surprised by the allegations contained in the new indictment which aver that the cause of death of Ms. Walker was either by a means unknown to the grand jurors, or that death was caused by "striking her with a plant stand, a deadly weapon."

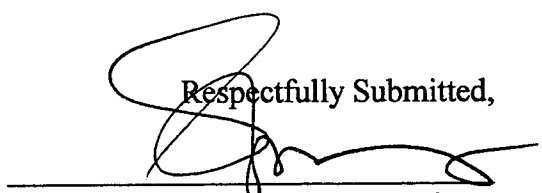
The defendant would show that his defense has been prepared on the assumption the state was going to attempt to prove that the cause of death was by "stabbing and cutting deceased with a knife, a deadly weapon." This preparation included the defendant's filing of pretrial motions, the development of trial strategy, and the securing of certain experts including a forensic pathologist. The defendant has not had sufficient time to investigate the new theories of the State concerning the cause of death in order to secure appropriate experts to investigate these allegations.

Defendant requests that the Court make findings of fact and conclusions of law regarding this motion. If this motion is denied, Defendant advises the Court that his announcement for trial is NOT READY and that he objects to proceeding forward. Denial of this motion will result in the Defendant not receiving effective assistance of counsel.

WHEREFORE PREMISES CONSIDERED, Defendant prays that relief be granted as prayed for herein; and that trial be continued for 90 days.

**DEFENDANT'S MOTION TO QUASH THE INDICTMENT OR IN THE ALTERNATIVE SECOND MOTION FOR CONTINUANCE**  
Page 3 of 6

Respectfully Submitted,

  
\_\_\_\_\_  
Steven R. Mears  
Lawyer  
P.O. Box 736  
Bonham, Texas 75418  
SBOT#14025600  
903-640-4963  
Fax: 903-640-4964  
StevenMears@msn.com

**VERIFICATION**

**STATE OF TEXAS**

§

§

**COUNTY OF FANNIN**

§

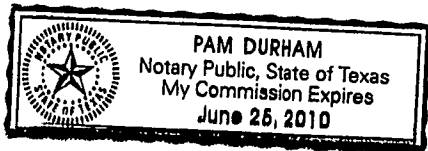
ON THIS DAY personally appeared STEVEN R. MIEARS, who, after being placed under oath, stated the following:

"My name is STEVEN R. MIEARS and I am the attorney of record for KOSOUL CHANTHAKOUMMANE and have been so at all material times relevant to this proceeding.

"I have read the Motion to Quash the Indictment or in the Alternative Second Motion for Continuance and every statement is within my personal knowledge and is true and correct."

  
\_\_\_\_\_  
STEVEN R. MIEARS

Sworn to and subscribed before me on the 6th day of September, 2007.



Pam Durham  
NOTARY PUBLIC

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing pleading was hand-delivered to the offices of the Collin County Attorney on the 7th day of September, 2007.

Steven Mears

Steven Mears

### FIAT

A hearing on the foregoing motion is set for the \_\_\_\_\_ day of \_\_\_\_\_, 2007,  
at \_\_\_\_ o'clock \_\_\_\_ .m. in the courtroom of the 380<sup>th</sup> Judicial District Court, Collin County  
Courthouse, McKinney, Texas.

\_\_\_\_\_

Judge Presiding



CAUSE NO. 380-81972-07

THE STATE OF TEXAS	*	IN THE 380TH DISTRICT COURT
	"	
VS.	*	OF
	"	
KOSOUL CHANTHAKOUMMANE		COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S MOTION TO QUASH AND SECOND MOTION FOR CONTINUANCE**

On the \_\_\_\_\_ day of September, 2007, came on to be heard the above-entitled motion. After consideration the court hereby:

GRANTS THE MOTION.

DENIES THE MOTION.

SO ORDERED THIS \_\_\_\_\_ DAY OF SEPTEMBER, 2007.

---

JUDGE PRESIDING

THE STATE OF TEXAS

VS.

KOSOUL CHANTHAKOUMMANE

§  
§  
§  
§  
§

IN THE DISTRICT COURT

380<sup>TH</sup> JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

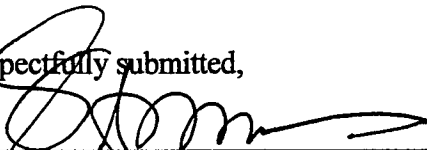
**THIRD SUPPLEMENTAL NOTICE OF EXPERTS  
THAT MAY TESTIFY AT TRIAL UNDER ARTICLE 39.14(b)  
OF THE TEXAS CODE OF CRIMINAL PROCEDURE**

TO THE HONORABLE JUDGE OF SAID COURT:

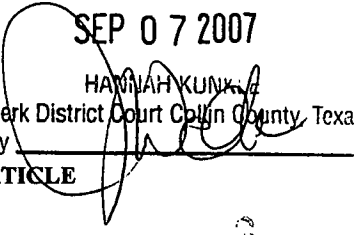
COMES NOW the Defendant, KOSOUL CHANTHAKOUMMANE, by and through his attorneys, and files this Supplemental Notice pursuant to Article 39.14 of the Texas Code of Criminal Procedure of expert witnesses that may testify on behalf of the Defendant in the above numbered and styled cause in addition to the expert witnesses designated by separate pleadings:

1. Casey DuPont  
Orchid Cellmark  
13988 Diplomat Drive, Suite 100  
Dallas, TX 75234  
1-800-872-5227  
Forensic DNA Analyst

Respectfully submitted,

  
STEVEN R. MIEARS  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX  
stevenmears@msn.com

**FILED**  
At \_\_\_\_\_ M

SEP 07 2007  
HANNAH KUNKLE  
Clerk District Court Collin County, Texas  
By 

KEITH GORE  
State Bar No. 24002164  
2301 W. Virginia Parkway  
McKinney, TX 75071  
972-670-6288

COUNSEL FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Notice of Experts that May Testify at Trial has been served on counsel for the State by hand-delivery on this 7<sup>th</sup> day of September, 2007.

  
\_\_\_\_\_  
COUNSEL FOR DEFENDANT

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	
v.	§	COLLIN COUNTY, TEXAS
	§	
KOSOUL CHANTHAKOUMMANE	§	380 <sup>TH</sup> JUDICIAL DISTRICT

**DEFENDANT'S OBJECTIONS TO THE COURT'S VOIR DIRE, MOTION TO INSTRUCT THE JURY TO DISREGARD, MOTION FOR MISTRIAL, OR IN THE ALTERNATIVE, MOTION TO QUASH THE JURY PANEL**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW KOSOUL CHANTHAKOUMMANE, Defendant in the above-entitled and numbered criminal action, by and through counsel, and objects to the Court's statements during voir dire to the general panel of potential petit jurors and in support thereof will show the following.

Background

The Defendant has been indicted by the Collin County Grand Jury for capital murder. The State of Texas is seeking the death penalty. The Eight Amendment requires a greater degree of accuracy and procedural safeguards than would be true in a non-capital case. *Gilmore v. Taylor*, 508 U.S. 333, 113 S. Ct. 2112, 124 L. Ed. 2d 306 (1993), and *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976).

Court's Objectionable / Harmful Statements

While speaking to the general panel of potential petit jurors ("panel") on September 7, 2007, the Court advised the panel that the petit jury in this case would not decide whether the Defendant is sentenced to death but would instead answer two special questions (paraphrasing). The Defendant objects to this statement by the Court because it:

1. misstates the law; see *Caldwell v. Mississippi*, 472 U.S. 320, 328-29 (1985);
2. violates the Defendant's right to a fair and impartial jury, and a speedy and public trial by jury, as guaranteed by the Sixth Amendment to the United States Constitution;
3. violates the Defendant's right to effective assistance of counsel as guaranteed by the Sixth Amendment to the United States Constitution;
4. violates the prohibition against infliction of cruel and unusual punishment as guaranteed the Defendant by the Eight Amendment to the United States Constitution;
5. violates the Defendant's rights to equal protection and due process as guaranteed by the Fourteenth Amendment to the United States Constitution;
6. violates the Defendant's rights under the due course of law provision of Tex. Const. Art. I §19;
7. violates the Defendant's rights to a speedy and public trial by an impartial jury as guaranteed by Tex. Const. Art. I §10;
8. violates Tex. Const. Art. I, §15 providing that "the right of trial by jury shall remain inviolate. The legislature shall pass laws to maintain its purity and efficiency."
9. violates the prohibition against the infliction of "cruel and unusual" punishment as provided by Tex. Const. Art. I, §13; and
10. minimizes the responsibility that each individual juror will have in this case; see *Caldwell v. Mississippi*, 472 U.S. 320, 328-29 (1985).

Responsibility for sentencing a criminal defendant to death rests firmly with each juror. *Caldwell v. Mississippi*, 472 U.S. 320, 328-29 (1985). Jurors must be “confronted with the truly awesome responsibility of decreeing death for a fellow human being” for only then “will [they] act with due regard for the consequences of their decision...” *McGrath v. California*, 402 U.S. 183, 208 (1971) (quoted in *Caldwell*, 472 U.S. at 329-330).

In a seminal 1983 article, using the infamous Milgram obedience studies as a point of departure, Robert Weisberg posed the following empirical question: “whether [capital] jurors artificially distance themselves from choices by relying on legal formalities?” Robert Weisberg, “Deregulating Death,” 1983 Sup. Ct. Rev. 305, 391. More recent research indicates that this is really happening in capital cases. Capital jurors, quite understandably, want to distance themselves from the emotional and moral work required in the capital decision making process. Jurors frequently labor under the misperception that they are not ultimately responsible for the life or death decision in a capital case. See Craig Haney, “Taking Capital Jurors Seriously,” 70 Ind. L.J. 1223, 1230-31 (Fall 1995). Indeed, one study found that of all the court’s instructions, the jurors most vividly recalled the instruction “indicating the jury’s decision was only a recommendation.” Joseph L. Hoffman, “Where’s the Buck? - - Juror Misperception of Sentencing Responsibility in Death Penalty Cases,” 70 Ind. L. J. 1137, 1147 (1995),

Thus, the Defendant objects to the Court’s September 7, 2007, description to the general panel of the petit jury’s involvement, or lack thereof, in deciding whether the Defendant lives or dies. Because of the Court’s statements, a juror may very likely get the false impression that he or she need only act like a merciless adding machine, spitting out answers to special questions after being given instructions from the Court, with no subjective role to play and no latitude to

make the profoundly moral discretionary decision the United States and Texas Constitutions compel. An uncorrected suggestion in voir dire “that the responsibility for any ultimate determination of death rest with others [or with the “law”] presents an intolerable danger that the jury will in fact choose to minimize the importance of its role. *Caldwell*, 472 U.S. at 333.

The Defendant also objects to the comments and remarks the Court made while introducing the parties. Specifically, the Court introduced the prosecutor, John Roach, and went on to describe in detail Mr. Roach’s biography, including Mr. Roach’s prior service as a district court judge in Collin County, Texas; Mr. Roach’s prior service as a justice on a Texas appellate court; that Mr. Roach knows how to correctly raise his children as evidenced by some of them becoming lawyers; that Mr. Roach’s son is currently serving as a district court judge in Collin County, Texas; that the Court is particularly fond of Mr. Roach’s daughter-in-law who is also a practicing attorney in Collin County, Texas. The Court also referred to the prosecutor, Mr. Roach, as “judge” throughout voir dire to the general panel.

The Court also described his own professional experience to the panel, which included service as an elected county judge, district court judge, and district attorney, as well as service as a felony assistant prosecutor. The Court’s professional experience and that of Mr. Roach are remarkably similar (and impressive), and at least as stated by the Court the resumes of both did not include service as criminal defense lawyers.

Leaving aside the fact that what the Court said regarding Mr. Roach is factually true (and certainly deserving of mention and high regard in other settings), the Defendant objects that these statements have a processing and prejudicial effect on the jurors in that they needlessly bolster the prosecution’s credibility and bias the jurors in favor of the prosecution. A juror could

easily think, based upon the Court's remarks, that if such a distinguished and experienced jurist as Mr. Roach believes the death penalty is appropriate in this case that he/she should too. The Defendant also asserts that because of the similarity between the Court's and Mr. Roach's professional experience, and the fact that Court referred to Mr. Roach as "judge" and even remarked in a moment of humor to Mr. Roach that the law does not provide an excuse for judges to opt out of jury duty the way it does for legislators, the Court's statements needlessly and harmfully aligned the prosecution with the Court and essentially anointed the prosecution with the blessing of the Court.

A presiding trial court judge must conduct the trial in a manner that is fair and impartial to all parties and must "refrain from making comments which may tend to cause prejudice to a litigant or which are calculated to influence the minds of the jury. *Valenzuela v. St. Paul Insurance Company*, 878 S.W.2d 667, 670 Tex.App. – San Antonio (1994) quoting *In Re Marriage of D.M.B. and R.L.B.*, 798 S.W.2d 399, 401 (Tex.App. – Amarillo 1990, no writ). This rule applies equally when the trial court addresses a general panel of prospective jurors. *Valenzuela* at 670. Further, it is clearly improper for the court to comment on his opinion of the credibility or character of the parties in front of the jury. *City of Houston v. Pillot*, 105 S.W.2d 870, 872 (Tex.Com.App. 1937).

The Defendant objects to the Court's comments regarding Mr. Roach because they:

1. violate the Defendant's right to a fair and impartial jury, and a speedy and public trial by jury, as guaranteed by the Sixth Amendment to the United States Constitution;



2. violate the Defendant's right to effective assistance of counsel as guaranteed by the Sixth Amendment to the United States Constitution;
3. violate the prohibition against infliction of cruel and unusual punishment as guaranteed the Defendant by the Eight Amendment to the United States Constitution;
4. violate the Defendant's rights to equal protection and due process as guaranteed by the Fourteenth Amendment to the United States Constitution;
5. violate the Defendant's rights under the due course of law provision of Tex. Const. Art. I §19;
6. violate the Defendant's rights to a speedy and public trial by an impartial jury as guaranteed by Tex. Const. Art. I §10;
7. violate Tex. Const. Art. I, §15 providing that "the right of trial by jury shall remain inviolate. The legislature shall pass laws to maintain its purity and efficiency."
8. violate the prohibition against the infliction of "cruel and unusual" punishment as provided by Tex. Const. Art. I, §13; and
9. minimizes the responsibility that each individual juror will have in this case by allowing them to trust the prosecutor without evidence; see *Caldwell v. Mississippi*, 472 U.S. 320, 328-29 (1985).

The Defendant moves the Court to sustain these objections, to instruct the jurors to disregard, and moves for a mistrial. In the alternative, the Defendant moves to quash the panel.

WHEREFORE, PREMISES CONSIDERED, the Defendant prays that this motion be granted and for any other relief to which he is entitled.

Respectfully submitted,



STEVEN R. MIEARS  
State Bar No. 14025600  
Post Office Box 736  
211 North Main  
Bonham, Texas 75418  
Telephone: 903-640-4963  
Telefax: 903-640-4964  
KEITH GORE  
State Bar No. 24002164  
Attorneys for Kosoul Chanthakoummane

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been furnished to counsel for the State by hand-delivery of a copy of same this the \_\_\_\_ day of September, 2007.



Keith Gore

CAUSE NUMBER 380-81972-07

THE STATE OF TEXAS

§  
§  
§  
§  
§

IN THE DISTRICT COURT

v.

COLLIN COUNTY, TEXAS

KOSOUL CHANTHAKOUMMANE

380<sup>TH</sup> JUDICIAL DISTRICT

**ORDER OF THE COURT ON**  
**DEFENDANT'S OBJECTIONS TO THE COURT'S VOIR DIRE, MOTION TO**  
**INSTRUCT THE JURY TO DISREGARD, MOTION FOR MISTRIAL, OR IN THE**  
**ALTERNATIVE, MOTION TO QUASH THE JURY PANEL**

BE IT REMEMBERED, that on the \_\_\_\_\_ day of \_\_\_\_\_,  
2007, came to be considered the above motion. After consideration of the motion, it is the  
opinion of the court that defendant's motion be:

GRANTED \_\_\_\_\_

DENIED \_\_\_\_\_, to which the Defendant excepts.

\_\_\_\_\_  
JUDGE PRESIDING

THE STATE OF TEXAS	§	IN THE 380TH DISTRICT COURT
VS.	§	OF
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

FILED  
07 SEP 21 PM 2:15  
HANNAN KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY [Signature] DEPUTY

pocket expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

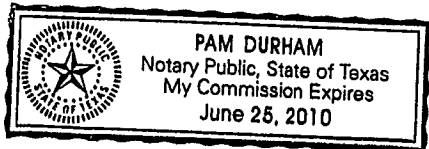
SIGNED this the 21 day of September, 2007.

Respectfully submitted,

By: \_\_\_\_\_

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st. day of September, 2007.



\_\_\_\_\_  
**Pam Durham**  
Notary Public, State of Texas

CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF


KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, JESSIE McDONALD, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

  
\_\_\_\_\_  
Judge Presiding

THE STATE OF TEXAS	§	IN THE 380TH DISTRICT COURT
VS.	§	OF
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY *[Signature]* DEPUTY

expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

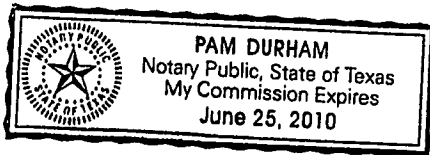
SIGNED this the 21 day of September, 2007.

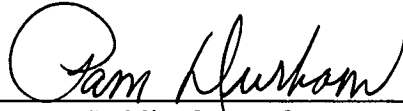
Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st day of September, 2007.



  
Notary Public, State of Texas



CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF

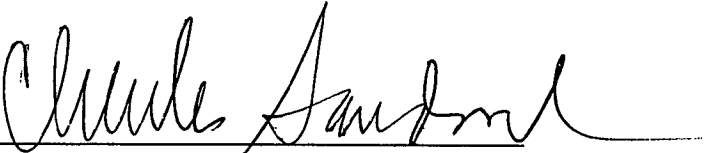
KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, KEVIN TUTTLE, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

  
Judge Presiding

THE STATE OF TEXAS	§	IN THE 380TH DISTRICT COURT
VS.	§	OF
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

TO THE HONORABLE JUDGE OF SAID COURT:

[illegible]

I, STEVEN R. MIEARS being duly sworn, depose and say: I am the court-appointed counsel for the Defendant, in the above-entitled and -numbered cause; that the above criminal prosecution is pending in the 380<sup>TH</sup> Judicial District Court, which is the Court of Record in the County of Collin and State of Texas; that BRUCE CABOT is a material and necessary witness for the defense who has testimony concerning the offense of CAPITAL MURDER charged in the above-entitled and -numbered cause, the production of which testimony before the said Court is necessary for the proper administration of justice; that the witness is presently located at 1019 Old Prison Camp Rd., Polkton; Anson County, North Carolina; that the presence of the said witness will be required from the 15<sup>th</sup> day of October, 2007, THRU the 31<sup>st</sup> day of October, 2007; that in order to arrive at this court, it will be necessary for the said witness to pass through those states between the State of North Carolina and the State of Texas and such States, as well as the State of Texas, under their laws will give the said witness protection from arrest and service of civil and criminal process in connection with matters which arose before entrance of the said witness into such States.

Your Applicant respectfully asks that process be issued to compel the attendance of the  
 said BRUCE CABOT as a witness before this Court. Your applicant further deposes and says  
 that under the laws of the State of Texas, the said witness will be reimbursed for all out-of-pocket

HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY [Signature] DEPUTY

expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

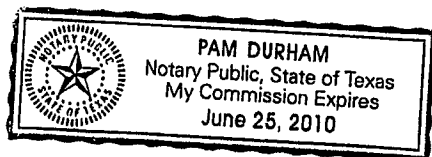
SIGNED this the 21 day of September, 2007.

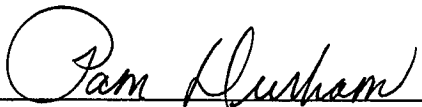
Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st. day of September, 2007.



  
Notary Public, State of Texas

CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF

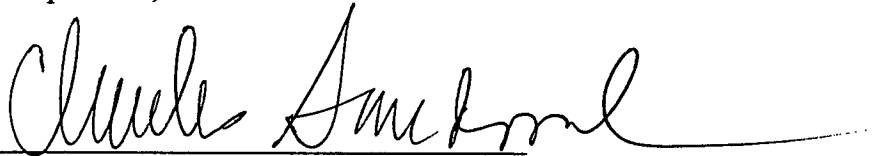
KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, BRUCE CABOT, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

  
\_\_\_\_\_  
Judge Presiding

**THE STATE OF TEXAS**                      §    **IN THE 380TH DISTRICT COURT**

**VS.**     §    **OF**

**KOSOUL CHANTHAKOUMMANE**          §    **COLLIN COUNTY, TEXAS**

TO THE HONORABLE JUDGE OF SAID COURT:

**STATE OF TEXAS**)  
 )  
**COUNTY OF FANNIN** )

I, STEVEN R. MIEARS being duly sworn, depose and say: I am the court-appointed counsel for the Defendant, in the above-entitled and -numbered cause; that the above criminal prosecution is pending in the 380<sup>TH</sup> Judicial District Court, which is the Court of Record in the County of Collin and State of Texas; that MIKE PITTMAN is a material and necessary witness for the defense who has testimony concerning the offense of CAPITAL MURDER charged in the above-entitled and -numbered cause, the production of which testimony before the said Court is necessary for the proper administration of justice; that the witness is presently located at 1019 Old Prison Camp Rd, Polkton, Anson County, North Carolina; that the presence of the said witness will be required from the 15<sup>th</sup> day of October, 2007, THRU the 31<sup>st</sup> day of October, 2007; that in order to arrive at this court, it will be necessary for the said witness to pass through those states between the State of North Carolina and the State of Texas and such States, as well as the State of Texas, under their laws will give the said witness protection from arrest and service of civil and criminal process in connection with matters which arose before entrance of the said witness into such States.

Your Applicant respectfully asks that process be issued to compel the attendance of the said MIKE PITTMAN as a witness before this Court. Your applicant further deposes and says that under the laws of the State of Texas, the said witness will be reimbursed for all out-of-pocket

HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY WOD DEPUTY

expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

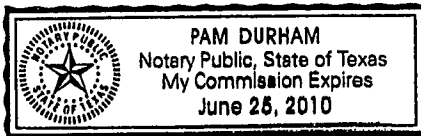
SIGNED this the 21 day of September, 2007.


Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st day of September, 2007.



  
Notary Public, State of Texas

**THE STATE OF TEXAS**

§ IN THE 380TH DISTRICT COURT

**VS.**

**§ OF**

**KOSOUL CHANTHAKOUMMANE**

**§ COLLIN COUNTY, TEXAS**

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, MIKE PITTMAN, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

Chuck Samboral  
Judge Presiding

THE STATE OF TEXAS	§	IN THE 380TH DISTRICT COURT
VS.	§	OF
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

TO THE HONORABLE JUDGE OF SAID COURT:

I, STEVEN R. MIEARS being duly sworn, depose and say: I am the court-appointed counsel for the Defendant, in the above-entitled and -numbered cause; that the above criminal prosecution is pending in the 380<sup>TH</sup> Judicial District Court, which is the Court of Record in the County of Collin and State of Texas; that LAWRENCE PARSONS is a material and necessary witness for the defense who has testimony concerning the offense of CAPITAL MURDER charged in the above-entitled and -numbered cause, the production of which testimony before the said Court is necessary for the proper administration of justice; that the witness is presently located at 1019 Old Prison Camp Rd., Polkton, Anson County, North Carolina; that the presence of the said witness will be required from the 15<sup>th</sup> day of October, 2007, THRU the 31<sup>st</sup> day of October, 2007; that in order to arrive at this court, it will be necessary for the said witness to pass through those states between the State of North Carolina and the State of Texas and such States, as well as the State of Texas, under their laws will give the said witness protection from arrest and service of civil and criminal process in connection with matters which arose before entrance of the said witness into such States.

Your Applicant respectfully asks that process be issued to compel the attendance of the said LAWRENCE PARSONS as a witness before this Court. Your applicant further deposes and says that under the laws of the State of Texas, the said witness will be reimbursed for all out-of-

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07 SEP 21 PM 2:46  
HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY \_\_\_\_\_ DEPUTY



pocket expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

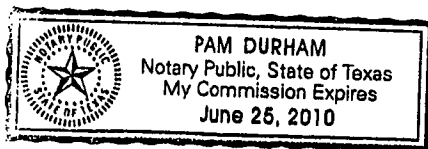
SIGNED this the 21 day of September, 2007.


Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st day of September, 2007.



  
Notary Public, State of Texas

THE STATE OF TEXAS	§	IN THE 380TH DISTRICT COURT
VS.	§	OF
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, LAWRENCE PARSONS, is a material and necessary witness for the Defendant, and the said Application is granted.

Chuck Anderson  
Judge Presiding

**THE STATE OF TEXAS                      §     IN THE 380TH DISTRICT COURT**

**VS.    §     OF**

**KOSOUL CHANTHAKOUMMANE          §     COLLIN COUNTY, TEXAS**

TO THE HONORABLE JUDGE OF SAID COURT:

STATE OF TEXAS           )  
COUNTY OF FANNIN         )

I, STEVEN R. MIEARS being duly sworn, depose and say: I am the court-appointed counsel for the Defendant, in the above-entitled and -numbered cause; that the above criminal prosecution is pending in the 380<sup>TH</sup> Judicial District Court, which is the Court of Record in the County of Collin and State of Texas; that PAMELA ALLEN is a material and necessary witness for the defense who has testimony concerning the offense of CAPITAL MURDER charged in the above-entitled and -numbered cause, the production of which testimony before the said Court is necessary for the proper administration of justice; that the witness is presently located at 108 Eastside Drive, Rockingham, Richmond County, North Carolina 28379; that the presence of the said witness will be required from the 15<sup>th</sup> day of October, 2007, THRU the 31<sup>st</sup> day of October, 2007; that in order to arrive at this court, it will be necessary for the said witness to pass through those states between the State of North Carolina and the State of Texas and such States, as well as the State of Texas, under their laws will give the said witness protection from arrest and service of civil and criminal process in connection with matters which arose before entrance of the said witness into such States.

Your Applicant respectfully asks that process be issued to compel the attendance of the said PAMELA ALLEN as a witness before this Court. Your applicant further deposes and says that under the laws of the State of Texas, the said witness will be reimbursed for all out-of-pocket

HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY TEXAS  
BY: [Signature] DEPUTY

expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

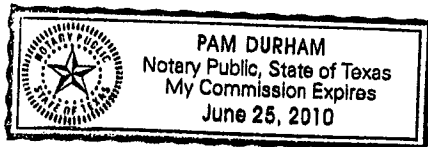
SIGNED this the 21 day of September, 2007.


Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st. day of September, 2007.



  
Notary Public, State of Texas

CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF

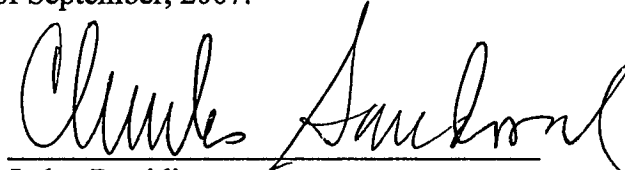
KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, PAMELA ALLEN, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

  
\_\_\_\_\_  
Judge Presiding

**THE STATE OF TEXAS                      §    IN THE 380TH DISTRICT COURT**

**VS.     §    OF**

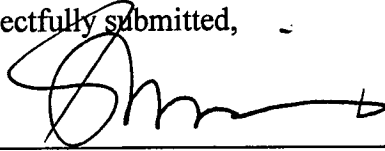
**KOSOUL CHANTHAKOUMMANE          §    COLLIN COUNTY, TEXAS**

07 SEP 21 PM 12:47  
the same witness will be re  
HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY \_\_\_\_\_ DEPUTY

for all out-of-pocket expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

SIGNED this the 21 day of September, 2007.

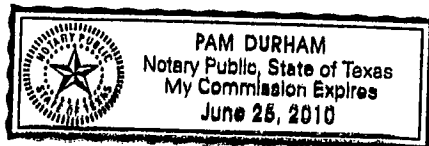
Respectfully submitted,



By: \_\_\_\_\_

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st day of September, 2007.



Notary Public, State of Texas

**CAUSE NO. 380-81972-07**

**THE STATE OF TEXAS**

**§ IN THE 380TH DISTRICT COURT**

**VS.**

**§ OF**

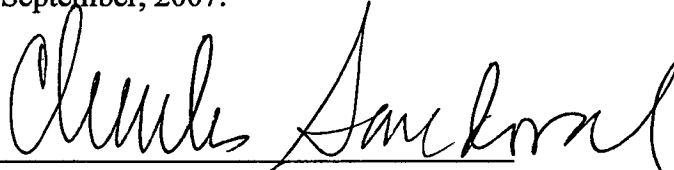
**KOSOUL CHANTHAKOUMMANE**

**§ COLLIN COUNTY, TEXAS**

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, RAYMOND W. HENDERSON, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

  
\_\_\_\_\_  
Judge Presiding



**THE STATE OF TEXAS                      §     IN THE 380TH DISTRICT COURT**

**VS.    §     OF**

**KOSOUL CHANTHAKOUMMANE          §     COLLIN COUNTY, TEXAS**

TO THE HONORABLE JUDGE OF SAID COURT:

[illegible]

I, STEVEN R. MIEARS being duly sworn, depose and say: I am the court-appointed counsel for the Defendant, in the above-entitled and -numbered cause; that the above criminal prosecution is pending in the 380<sup>TH</sup> Judicial District Court, which is the Court of Record in the County of Collin and State of Texas; that HARRISON WHITLEY is a material and necessary witness for the defense who has testimony concerning the offense of CAPITAL MURDER charged in the above-entitled and -numbered cause, the production of which testimony before the said Court is necessary for the proper administration of justice; that the witness is presently located at 2732 Highway 74 West, Wadesboro, Anson County, North Carolina 28170; that the presence of the said witness will be required from the 15<sup>th</sup> day of October, 2007, THRU the 31<sup>st</sup> day of October, 2007; that in order to arrive at this court, it will be necessary for the said witness to pass through those states between the State of North Carolina and the State of Texas and such States, as well as the State of Texas, under their laws will give the said witness protection from arrest and service of civil and criminal process in connection with matters which arose before entrance of the said witness into such States.

Your Applicant respectfully asks that process be issued to compel the attendance of the said HARRISON WHITLEY as a witness before this Court. Your applicant further deposes and says that under the laws of the State of Texas, the said witness will be reimbursed for all out-of-

07 SEP 81 PM 2:47  
HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY [Signature] DEPUTY

pocket expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.


SIGNED this the 21 day of September, 2007.

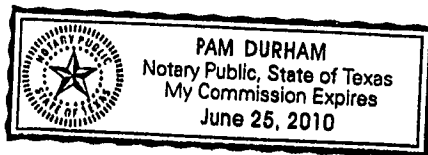
Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st day of September, 2007.

  
Notary Public, State of Texas



CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF

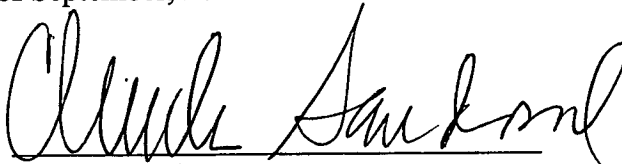
KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, HARRISON WHITLEY, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

  
Judge Presiding

**THE STATE OF TEXAS**                      §    **IN THE 380TH DISTRICT COURT**

**VS.**    §    **OF**

**KOSOUL CHANTHAKOUMMANE**         §    **COLLIN COUNTY, TEXAS**

TO THE HONORABLE JUDGE OF SAID COURT:

[illegible]

Your Applicant respectfully asks that process be issued to compel the attendance of the  
 said DIANE MOORE as a witness before this Court. Your applicant further deposes and says  
 that under the laws of the State of Texas, the said witness will be reimbursed for all out-of-pocket

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MANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY \_\_\_\_\_ DEPUTY

expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

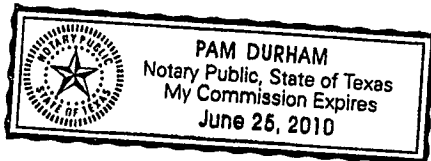
SIGNED this the 21 day of September, 2007.


Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st day of September, 2007.



  
Notary Public, State of Texas

CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF

KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, DIANE MOORE, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

A handwritten signature in black ink, appearing to read "Charles A. Sauter", written over a horizontal line.

Judge Presiding

THE STATE OF TEXAS	§	IN THE 380TH DISTRICT COURT
VS.	§	OF
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

TO THE HONORABLE JUDGE OF SAID COURT:

I, STEVEN R. MIEARS being duly sworn, depose and say: I am the court-appointed counsel for the Defendant, in the above-entitled and -numbered cause; that the above criminal prosecution is pending in the 380<sup>TH</sup> Judicial District Court, which is the Court of Record in the County of Collin and State of Texas; that FRANK THULEEN is a material and necessary witness for the defense who has testimony concerning the offense of CAPITAL MURDER charged in the above-entitled and -numbered cause, the production of which testimony before the said Court is necessary for the proper administration of justice; that the witness is presently located at 699 Johnson Road, Polkton, Anson County, North Carolina 28135; that the presence of the said witness will be required from the 15<sup>th</sup> day of October, 2007, THRU the 31<sup>st</sup> day of October, 2007; that in order to arrive at this court, it will be necessary for the said witness to pass through those states between the State of North Carolina and the State of Texas and such States, as well as the State of Texas, under their laws will give the said witness protection from arrest and service of civil and criminal process in connection with matters which arose before entrance of the said witness into such States.

Your Applicant respectfully asks that process be issued to compel the attendance of the  
 said FRANK THULEEN as a witness before this Court. Your applicant further deposes and says  
 that under the laws of the State of Texas, the said witness will be reimbursed for all out-of-pocket

HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY TEXAS  
BY [Signature] DEPUTY

expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

SIGNED this the 21 day of September, 2007.

Respectfully submitted,

By: \_\_\_\_\_

**STEVEN R. MIEARS**

Attorney for Defendant

State Bar No. 14025600

211 North Main

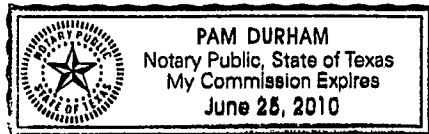
P.O. Box 736

Bonham, TX 75418

903-640-4963

903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st day of September, 2007.



\_\_\_\_\_  
**Pam Durham**  
Notary Public, State of Texas



CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF

KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, FRANK THULEEN, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

  
\_\_\_\_\_  
Judge Presiding

THE STATE OF TEXAS	§	IN THE 380TH DISTRICT COURT
VS.	§	OF
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

TO THE HONORABLE JUDGE OF SAID COURT:

I, STEVEN R. MIEARS being duly sworn, depose and say: I am the court-appointed counsel for the Defendant, in the above-entitled and -numbered cause; that the above criminal prosecution is pending in the 380<sup>TH</sup> Judicial District Court, which is the Court of Record in the County of Collin and State of Texas; that JERRY McDONALD is a material and necessary witness for the defense who has testimony concerning the offense of CAPITAL MURDER charged in the above-entitled and -numbered cause, the production of which testimony before the said Court is necessary for the proper administration of justice; that the witness is presently located at 110 Entwistle Road, Rockingham, Richmond County, North Carolina 28379; that the presence of the said witness will be required from the 15<sup>th</sup> day of October, 2007, THRU the 31<sup>st</sup> day of October, 2007; that in order to arrive at this court, it will be necessary for the said witness to pass through those states between the State of North Carolina and the State of Texas and such States, as well as the State of Texas, under their laws will give the said witness protection from arrest and service of civil and criminal process in connection with matters which arose before entrance of the said witness into such States.

Your Applicant respectfully asks that process be issued to compel the attendance of the  
 said JERRY McDONALD as a witness before this Court. Your applicant further deposes and  
 says that under the laws of the State of Texas, the said witness shall be reimbursed for all out-of-

be issued to compel the attendance of the witness. Your applicant further desires that the witness be reimbursed for expenses incurred in attending court.

**FILED**  
07 SEP 21 PM 2:48  
HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY *[Signature]* DEPUTY

expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

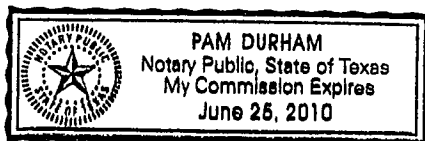
SIGNED this the 21 day of September, 2007.

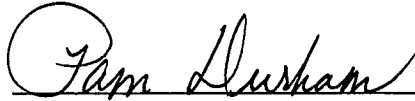
Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st day of September, 2007.



  
Notary Public, State of Texas

CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF

KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, JERRY McDONALD, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

A handwritten signature in cursive script, appearing to read "Claude Sandborn", written over a horizontal line.

Judge Presiding

**THE STATE OF TEXAS                      §     IN THE 380TH DISTRICT COURT**

**VS.    §     OF**

**KOSOUL CHANTHAKOUMMANE          §     COLLIN COUNTY, TEXAS**

TO THE HONORABLE JUDGE OF SAID COURT:

[illegible]

I, STEVEN R. MIEARS being duly sworn, depose and say: I am the court-appointed counsel for the Defendant, in the above-entitled and -numbered cause; that the above criminal prosecution is pending in the 380<sup>TH</sup> Judicial District Court, which is the Court of Record in the County of Collin and State of Texas; that TONY SHANK is a material and necessary witness for the defense who has testimony concerning the offense of CAPITAL MURDER charged in the above-entitled and -numbered cause, the production of which testimony before the said Court is necessary for the proper administration of justice; that the witness is presently located at 6600 Wilson Woods Drive, Charlotte, Mecklenburg County, North Carolina 28227; that the presence of the said witness will be required from the 15<sup>th</sup> day of October, 2007, THRU the 31<sup>st</sup> day of October, 2007; that in order to arrive at this court, it will be necessary for the said witness to pass through those states between the State of North Carolina and the State of Texas and such States, as well as the State of Texas, under their laws will give the said witness protection from arrest and service of civil and criminal process in connection with matters which arose before entrance of the said witness into such States.

Your Applicant respectfully asks that process be issued to compel the attendance of the said TONY SHANK as a witness before this Court. Your applicant further deposes and says that under the laws of the State of Texas, the said witness will be reimbursed for all out-of-pocket

HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY [Signature] DEPUTY

expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

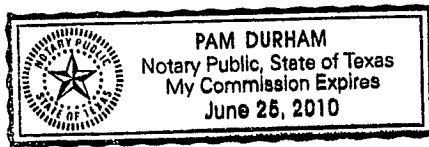
SIGNED this the 21 day of September, 2007.


Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st day of September, 2007.



  
Notary Public, State of Texas

CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF

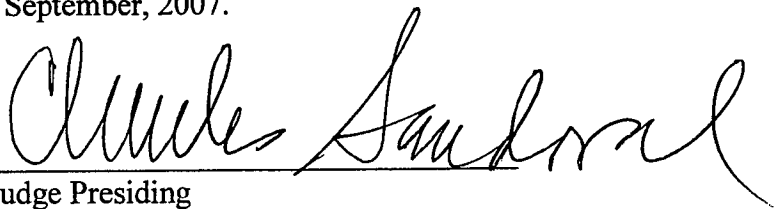
KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, TONY SHANK, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 24 day of September, 2007.

  
Judge Presiding

CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF

KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**APPLICATION FOR PROCESS OF AN  
OUT OF STATE WITNESS FOR TRIAL**

TO THE HONORABLE JUDGE OF SAID COURT:

STATE OF TEXAS           )  
                                      )  
COUNTY OF FANNIN       )

I, STEVEN R. MIEARS being duly sworn, depose and say: I am the court-appointed counsel for the Defendant, in the above-entitled and -numbered cause; that the above criminal prosecution is pending in the 380<sup>TH</sup> Judicial District Court, which is the Court of Record in the County of Collin and State of Texas; that MARTY COX is a material and necessary witness for the defense who has testimony concerning the offense of CAPITAL MURDER charged in the above-entitled and -numbered cause, the production of which testimony before the said Court is necessary for the proper administration of justice; that the witness is presently located at 2732 Highway 74 West, Wadesboro, Anson County, North Carolina 28170; that the presence of the said witness will be required from the 15<sup>TH</sup> day of October, 2007, THRU the 31<sup>ST</sup> day of October, 2007; that in order to arrive at this court, it will be necessary for the said witness to pass through those states between the State of North Carolina and the State of Texas and such States, as well as the State of Texas, under their laws will give the said witness protection from arrest and service of civil and criminal process in connection with matters which arose before entrance of the said witness into such States.

Your Applicant respectfully asks that process be issued to compel the attendance of the said MARTY COX as a witness before this Court. Your applicant further deposes and says that under the laws of the State of Texas, the said witness will be reimbursed for all out-of-pocket

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HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY [Signature] DEPUTY



expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

SIGNED this the 21 day of September, 2007.

Respectfully submitted,

By: 

**STEVEN R. MIEARS**

Attorney for Defendant

State Bar No. 14025600

211 North Main

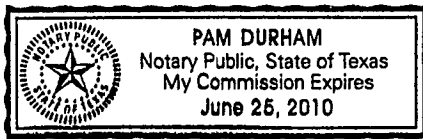
P.O. Box 736


Bonham, TX 75418

903-640-4963

903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st day of September, 2007.



  
Notary Public, State of Texas

CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF

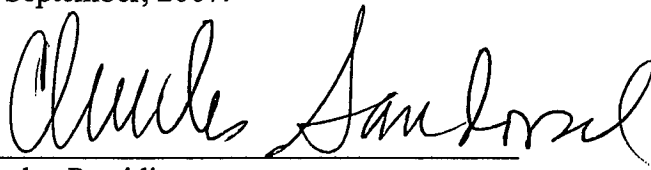
KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, MARTY COX, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

  
\_\_\_\_\_  
Judge Presiding

**THE STATE OF TEXAS                      §    IN THE 380TH DISTRICT COURT**

**VS.     §    OF**

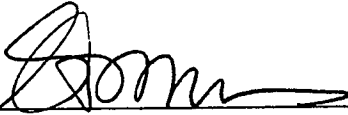
**KOSOUL CHANTHAKOUMMANE          §    COLLIN COUNTY, TEXAS**

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HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY [Signature] DEPUTY

expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

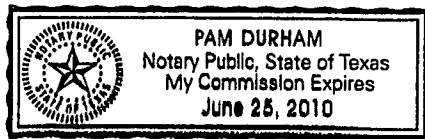
SIGNED this the 21 day of September, 2007.

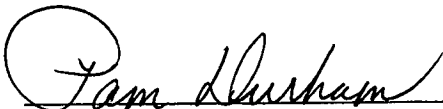
Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st day of September, 2007.



  
Notary Public, State of Texas

CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF

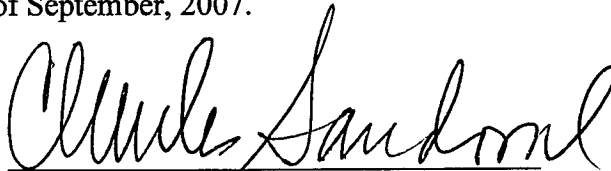
KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, JEREMY WILSON, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

  
Judge Presiding

**CAUSE NO. 380-81972-07**

THE STATE OF TEXAS	§	IN THE 380TH DISTRICT COURT
VS.	§	OF
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

# APPLICATION FOR PROCESS OF AN OUT OF STATE WITNESS FOR TRIAL

TO THE HONORABLE JUDGE OF SAID COURT:

[illegible]

I, STEVEN R. MIEARS being duly sworn, depose and say: I am the court-appointed counsel for the Defendant, in the above-entitled and -numbered cause; that the above criminal prosecution is pending in the 380<sup>TH</sup> Judicial District Court, which is the Court of Record in the County of Collin and State of Texas; that DOM DUARTE is a material and necessary witness for the defense who has testimony concerning the offense of CAPITAL MURDER charged in the above-entitled and -numbered cause, the production of which testimony before the said Court is necessary for the proper administration of justice; that the witness is presently located at Restoration House Ministries, 1610 W. Franklin, Monroe, Union County, North Carolina; that the presence of the said witness will be required from the 15<sup>th</sup> day of October, 2007, THRU the 31<sup>st</sup> day of October, 2007; that in order to arrive at this court, it will be necessary for the said witness to pass through those states between the State of North Carolina and the State of Texas and such States, as well as the State of Texas, under their laws will give the said witness protection from arrest and service of civil and criminal process in connection with matters which arose before entrance of the said witness into such States.

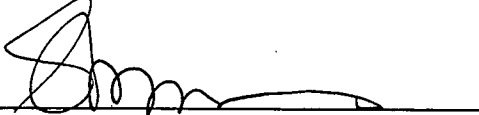
Your Applicant respectfully asks that process be issued to compel the attendance of the said DOM DUARTE as a witness before this Court. Your applicant further deposes and says that under the laws of the State of Texas, the said witness will be reimbursed for all out-of-pocket

HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY [Signature] DEPUTY

expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

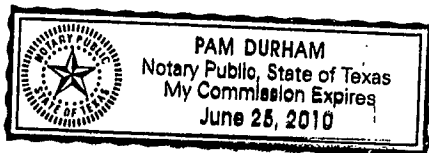
SIGNED this the 21 day of September, 2007.

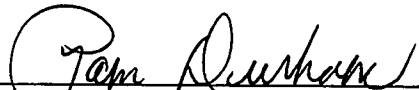
Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st day of September, 2007.



  
Notary Public, State of Texas

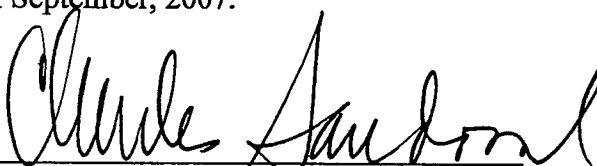
CAUSE NO. 380-81972-07

THE STATE OF TEXAS                      §    IN THE 380TH DISTRICT COURT  
VS.    §    OF  
KOSOUL CHANTHAKOUMMANE           §    COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, DOM DUARTE, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

  
\_\_\_\_\_  
Judge Presiding



THE STATE OF TEXAS	§	IN THE 380TH DISTRICT COURT
VS.	§	OF
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

TO THE HONORABLE JUDGE OF SAID COURT:

[illegible]

I, STEVEN R. MIEARS being duly sworn, depose and say: I am the court-appointed counsel for the Defendant, in the above-entitled and -numbered cause; that the above criminal prosecution is pending in the 380<sup>TH</sup> Judicial District Court, which is the Court of Record in the County of Collin and State of Texas; that CHANH CHANTHAKOUMMANE is a material and necessary witness for the defense who has testimony concerning the offense of CAPITAL MURDER charged in the above-entitled and -numbered cause, the production of which testimony before the said Court is necessary for the proper administration of justice; that the witness is presently located at 1921 Forest Side Lane, Charlotte, Mecklenburg County, North Carolina; that the presence of the said witness will be required from the 15<sup>th</sup> day of October, 2007, THRU the 31<sup>st</sup> day of October, 2007; that in order to arrive at this court, it will be necessary for the said witness to pass through those states between the State of North Carolina and the State of Texas and such States, as well as the State of Texas, under their laws will give the said witness protection from arrest and service of civil and criminal process in connection with matters which arose before entrance of the said witness into such States.

Your Applicant respectfully asks that process be issued to compel the attendance of the said CHANH CHANTHA KOUMANNE as a witness before this Court. Your applicant further deposes and says that under the laws of the State of Texas, the said witness will be reimbursed

HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY [Signature] DEPUTY

for all out-of-pocket expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

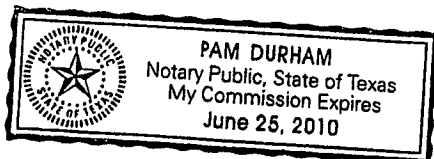
SIGNED this the 21 day of September, 2007.

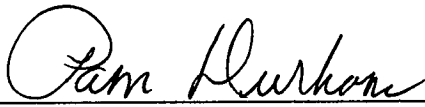
Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21st day of September, 2007.



  
Notary Public, State of Texas

CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF

KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, CHANH CHANTHAKOUMMANE, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 24 day of September, 2007.

  
Judge Presiding

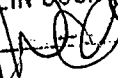
THE STATE OF TEXAS	§	IN THE 380TH DISTRICT COURT
VS.	§	OF
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

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HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS

BY  DEPUTY

reimbursed for all out-of-pocket expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.


SIGNED this the 21 day of September, 2007.

Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21 day of September, 2007.

  
Notary Public, State of Texas

CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF

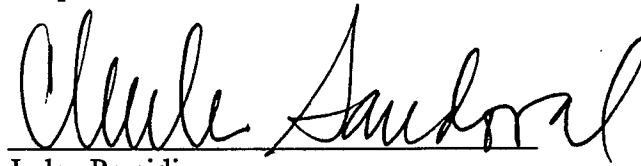
KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, KOMONH CHANTHAKOUMMANE, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

  
Judge Presiding

THE STATE OF TEXAS	§	IN THE 380TH DISTRICT COURT
VS.	§	OF
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY [Signature] DEPUTY

for all out-of-pocket expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

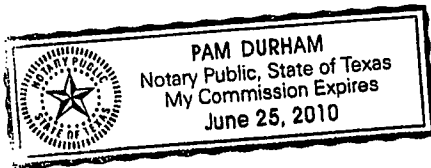
SIGNED this the 21 day of September, 2007.


Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 21<sup>st</sup> day of September, 2007.



  
Notary Public, State of Texas



CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF

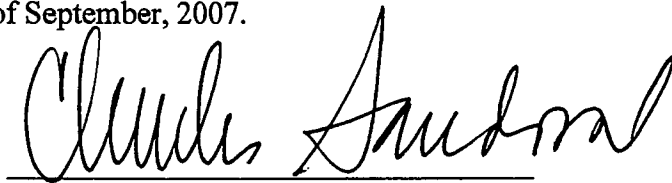
KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, SOPHA CHANTHAKOUMMANE, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 21 day of September, 2007.

A handwritten signature in black ink, appearing to read "Claude Audon", written over a horizontal line.

Judge Presiding

THE STATE OF TEXAS	§	IN THE 380TH DISTRICT COURT
VS.	§	OF
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY *[Signature]*

pocket expenses paid for actual travel, housing, and food in connection with the appearance of the said witness before the Court.

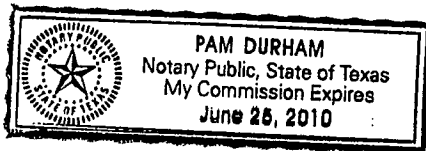
SIGNED this the 24 day of September, 2007.

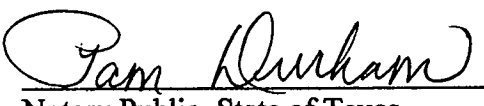
Respectfully submitted,

By: 

**STEVEN R. MIEARS**  
Attorney for Defendant  
State Bar No. 14025600  
211 North Main  
P.O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX

Subscribed and sworn before me, the undersigned authority, on this the 24th day of September, 2007.



  
Notary Public, State of Texas

CAUSE NO. 380-81972-07

THE STATE OF TEXAS

§ IN THE 380TH DISTRICT COURT

VS.

§ OF


KOSOUL CHANTHAKOUMMANE

§ COLLIN COUNTY, TEXAS

**ORDER ON DEFENDANT'S APPLICATION FOR  
PROCESS ON AN OUT-OF-STATE WITNESS FOR TRIAL**

On this day came on for consideration the Defendant's Application for Process on an out-of-state witness to secure the appearance and testimony of the witness at the trial of the above-entitled and -numbered cause, and having considered the same, the Court is of the opinion that the said witness, <sup>HARDEN</sup>ROBERT HARDEN, is a material and necessary witness for the Defendant, and the said Application is granted.

SIGNED this the 24 day of September, 2007.

  
Judge Presiding

*File in [unclear] 11:40AM [unclear] Fr. Dist. Judge*

IN THE 380<sup>th</sup> JUDICIAL DISTRICT COURT  
OF COLLIN COUNTY, TEXAS

_____	}	
THE STATE OF TEXAS	}	
	}	
v.	}	Indictment No. 380-81972-07
	}	
	}	
KOSOUL CHANTHAKOUMMANE	}	
_____		

**MOTION TO ABATE VOIR DIRE AND TRIAL  
AND TO DECLARE THE DEATH PENALTY UNCONSTITUTIONAL  
BASED ON TEXAS' LETHAL INJECTION PROTOCOL AND THE U.S. SUPREME  
COURT'S DEFACTO AND DEJURE DECLARATION OF A MORATORIUM ON THE  
USE OF THE LETHAL INJECTION PROTOCOL AND THE TEXAS STATUTE'S AND  
PROVISION FOR THE USE OF LETHAL INJECTION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, KOSOUL CHANTHAKOUMMANE, by Counsel and pursuant to the Fifth, Sixth, Eighth and Fourteenth Amendments to the UNITED STATES CONSTITUTION and Articles 1, Section 13 of the TEXAS CONSTITUTION, and pursuant to international law, moves this Court to abate the trial in this case and to further declare Texas' capital punishment scheme unconstitutional based on its lethal injection protocol. In support, the defendant would show:

**I.**

**FACTUAL BACKGROUND**

The defendant has been charged with the offense of capital murder. If the defendant is found guilty and sentenced to death, he will face death by lethal injection of a drug cocktail that includes an agent – pancuronium bromide – that the State of Texas has outlawed for use in euthanizing animals. Because defendant believes that Texas' lethal injection protocol is violative

Motion to declare law unconstitutional as to lethal injection and motion to abate trial.

of his rights under the Texas and United States constitutions, as well as under international law, he brings this motion.

## **II.**

### **MOTION:**

#### **TEXAS' LETHAL INJECTION PROTOCOL VIOLATES THE TEXAS AND FEDERAL CONSTITUTIONS AND INTERNATIONAL LAW.**

### **A.**

#### **TEXAS' USE OF PANCURONIUM BROMIDE DRAWS A "CHEMICAL VEIL" OVER THE LETHAL INJECTION PROCEDURE WHICH VIOLATES THE EIGHTH AMENDMENT OF THE UNITED STATES CONSTITUTION AND ARTICLE 1, SECTION 13 OF THE TEXAS CONSTITUTION.**

##### **1. Summary.**

Pancuronium bromide is the second of three drugs administered to the condemned inmate during the lethal injection process. Pancuronium bromide draws a "chemical veil" over the procedure. It is a neuromuscular blocking agent, which is illegal for use in animal euthanasia. It has the effect of rendering the muscles unable to contract but does not affect the brain or the nerves of the inmate. The paralytic effect on the muscles make the inmate look serene, when that is not necessarily true. Defendant contends that the use of this drug creates an unreasonable risk that the inmate will be paralyzed but will not be rendered unconscious before he is administered the final horrific painful drug. The effect of pancuronium bromide can therefore be to subject the inmate to torturous pain, but because of his paralysis he is unable to communicate his consciousness or his agony and viewers are unable to perceive that the inmate is conscious or in agony. This result offends the human dignity of the inmate and of society. It is therefore unconstitutional to use it in the lethal injection procedure. *See Weems v. United States*, 217 U.S.

349, 367-8 (1910). The use of pancuronium bromide inflicts the type of unnecessary psychological suffering during the inmate's final living moments which was prohibited by the U.S. Supreme Court in *Weems*.

Counsel for the Defendant submits three affidavits in support of this motion. They are from Dr. Mark Heath of Columbia University, Dr. Dennis Geiser of the University of Tennessee, and Carol Weihrer, founder of Anesthesia Awareness. These affidavits were submitted in the case of *Texas v. Jesus Flores*, No. 877,994A and are attached to this motion as Exhibits 1 through 3.

**2. The "Chemical Veil" Causes an Unnecessary and Wanton Infliction of Pain.**

The Eighth Amendment prohibition against cruel and inhuman punishment forbids punishments that involve unnecessary and wanton inflictions of pain. *Estelle v. Gamble*, 429 U.S. 97, 102-5 (1976). The use of pancuronium bromide (also known as *Pavulon*) is unnecessary in the lethal injection process. The Court of Appeals of Tennessee, at Nashville, recognized that "there is no dispute that Pavulon can mask the pain and suffering of persons who are not completely sedated and that these persons would appear to be peaceful despite the pain they were experiencing." *Abdur'Rahman v. Bell*, (No. M2003-01767-COA-R3-CV), 2004 Tenn. App. LEXIS 643 at \*70, *cert. granted on other grounds, judgment vacated and case remanded*, 2005 U.S. LEXIS 5217 (U.S. Sup. Ct. June 28, 2005). Pancuronium bromide is a neuromuscular blocking agent that renders the muscles unable to contract but does not affect the brain or the nerves of the inmate. The paralytic effect on the muscles make the inmate look serene, when that is not necessarily true. *See* Affidavit of Dr. Mark Heath, attached as Exhibit 1. If pancuronium bromide were not used in the process at all, it would not decrease the efficacy of the procedure. It

would, however, increase the humaneness of the procedure because it would lift the “chemical veil” behind which the inmate’s agony hides. *See id.* It would also allow the observers to witness actual pain that the inmate is suffering. Pancuronium bromide is administered so that the executioner and viewing public are themselves “sedated” into thinking that the execution process is a calm, peaceful and humane procedure. This is only true because the 2<sup>nd</sup> drug in the cocktail is designed to mask the true pain experienced by the inmate as he is dying.

Carol Weihrer is the President and Founder of the charity Anesthesia Awareness. She has provided an affidavit describing her personal experience of agony under a neuromuscular blocking agent when the brain-scrambling anesthesia was ineffective. This is the same as the experience the condemned inmate may endure. *See* Affidavit of Carol Weihrer, attached as Exhibit 2. She is of the opinion that the experience was “worse than death” because she is unable to sleep at night, and has to cope every day with the horror of what happened.

A punishment is cruel under the Eighth Amendment when it includes “something more than the mere extinguishment of life.” *In re Kemmler*, 136 U.S. 436, 447 (1890). As interpreted by the Supreme Court, the Eighth Amendment prohibition is intended to reduce the punishment as far as possible to no more than that of death itself. Methods of execution have evolved over time in keeping with this principle. The “chemical veil” of pancuronium bromide now constitutes that extra factor that makes the punishment more than merely taking the life of the inmate; in some cases it makes the punishment worse than death itself. For the short time before the inmate’s life expires, there is the substantial risk that the punishment is more than the law allows. The punishment is therefore unconstitutional under the law as it stands.



This false impression of serenity to viewers raises the age-old concerns of government abuses of power. By masking the real effects of government actions, the government is manipulating the setting and “gilding the lily” in order to orchestrate and manipulate public reaction to the death penalty; it, therefore, offends the dignity and the evolving standards of decency of our society. *See Trop v. Dulles*, 356 U.S. 86, 101 (1958).

### **3. Substantial Risk**

The Eighth Amendment prohibition against cruel and inhuman punishment forbids punishments when the method of execution creates a substantial risk of wanton and unnecessary infliction of pain, torture or lingering death. *See Louisiana ex rel. Francis v. Resweber*, 329 U.S. 459, 463 (1947). The risk of unnecessary pain is substantial in the lethal injection procedure because the first drug to be administered, sodium thiopental, is an anachronistic anesthetic. It does not always render the inmate unconscious. *See Exhibit 1 (Heath Aff.)*. Unnecessary psychological pain and torture is inflicted when the inmate is not unconscious because the chemical veil of the pancuronium bromide prevents the inmate from expressing the pain he/she is experiencing.

The risks of the sodium thiopental not rendering the inmate unconscious do not affect the end result of the execution, but they do affect the constitutionality of the execution. In a study of post-mortem levels of thiopental in 49 persons executed by lethal injection, medical researchers have found that “most of the executed inmates had concentrations that would not be expected to produce a surgical plane of anaesthesia, and 21 (43 per cent) had concentrations consistent with consciousness.” Dr. Leonidas G. Koniaris, et al., *Inadequate Anaesthesia in Lethal Injection for Execution*, 365 LANCET 1412, 1413 (2005). The study concluded: “In view of these data, we

suggest that it is possible that some of these inmates were fully aware during their executions.

We certainly cannot conclude that these inmates were unconscious and insensate.” *Id.* at 1414.

Once in liquid form, sodium thiopental has a very short shelf life of less than 24 hours. This compromises its potency. *See* Exhibit 1 (Heath Aff.). The dose of sodium thiopental fails to adequately cater to the different drug tolerances, the different drug histories and the different physical sizes of inmates. Sodium thiopental was originally chosen to be used because it is fast acting, but now it is this characteristic of the drug which can cause the anesthesia to wear off in a matter of minutes and cause the inmate to awaken while the other drugs are administered; it is another aspect of the execution procedure which is in need of updating. In surgery, the injection of sodium thiopental will be followed almost immediately, subject to the monitoring of the patient, with administration of another, longer-lasting anesthetic. Other drugs, such as sodium pentobarbital, endure far longer and would serve the desired purposes better.

It is often difficult for a physician to find a suitable vein to inject, especially when the inmate is nervous, or obese, or a drug user, or diabetic, or muscular, or has heavily pigmented skin. It is therefore even harder for the person entrusted with this job by the State of Texas because he/she is not a qualified physician. It is not proposed here to retell the numerous accounts of botched injections in the State of Texas, but they exist as proof of the substantial risk that the anesthesia does not protect the inmate from the torture of the “chemical veil.” There are plenty of opportunities throughout the process for a botched execution. These risk factors, when taken all together, amount to a substantial risk of unnecessary pain. They therefore make the lethal injection procedure, as it currently stands, unconstitutional under the law as described by the U.S. Supreme Court. The fact that pancuronium bromide is unnecessary to bring about the

death of the inmate makes these risks all the more unacceptable and unconstitutional. It is only the third drug in the series that causes the heart to stop beating.

#### 4. **Conclusion**

Lethal injection is seen by the public to be the most humane method of execution. The result, therefore, is the most duplicitous irony of all: the very method which seems the most appealing in the eyes of the public is also one of the most unjustifiably cruel. The use of pancuronium bromide creates a double veil over the process. It disguises the fact that there is a disguise over the process. *See* Exhibit 1 (Heath Aff.). Pancuronium bromide is psychologically horrific and its use violates the Eighth Amendment. Further, any argument that the risk of unnecessary suffering is remote is disingenuous. No one has survived an execution to testify to his or her experience. All evidence of suffering has first been masked by pancuronium bromide and then ultimately buried by the state.

B.

**TEXAS' USE OF PANCURONIUM BROMIDE IN ITS LETHAL INJECTION  
PROCEDURE OFFENDS HUMAN DIGNITY, AND VIOLATES THE EIGHTH  
AMENDMENT OF THE UNITED STATES CONSTITUTION AND ARTICLE 1, § 13 OF  
THE TEXAS CONSTITUTION, BECAUSE THE DRUG IS ILLEGAL IN THE  
EUTHANASIA OF ANIMALS.**

1. **Pancuronium Bromide is Illegal in Animal Euthanasia, and Therefore Does Not  
Pass the Evolving Standards of Decency Test.**

Although Texas' lethal injection procedure was held not to violate the Eighth Amendment in *Ex Parte Granviel*, 561 S.W.2d 503, 510 (1978), it would be error for this court to assume the protocol would survive constitutional scrutiny today. All Eighth Amendment determinations are subject to the evolving standards of decency that mark the progress of a maturing society. See *Atkins v. Virginia*, 536 U.S. 304, 311-2 and 321 (2002); see also *Trop v. Dulles*, 356 U.S. 86, 101 (1958). Compare *Roper v. Simmons*, 125 S.Ct. 1183, 1198 (2005) with *Stanford v. Kentucky*, 492 U.S. 361, 369 (1989). The lethal injection procedure must conform to the contemporary norms and standards of American society. See *Weems v. United States*, 217 U.S. 349, 367 (1910). Science has moved on since the late 1970's, and a greater knowledge is available of the drugs involved in lethal injection. Pancuronium bromide is strongly discouraged by the American Veterinary Medical Association<sup>1</sup>

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<sup>1</sup> The American Veterinary Medical Association is the national association for veterinarians. It is a governing body for the veterinary medical profession. The AVMA standards establish the standards of veterinary practice throughout the state of Texas as well as the rest of the country.

in the euthanasia of animals, with the warning that animals may perceive pain and distress after they are immobilized. *See* Affidavit of Dr. Dennis Geiser, attached as Exhibit 2. The use of the drug is banned in the State of Texas for this purpose. TEX. HEALTH & SAFETY CODE Article 821.052.<sup>2</sup> The euthanasia of animals in Texas must now be in accordance with the American Veterinary Medical Association Panel on Euthanasia Report 2000, which condemns the use of pancuronium bromide. *See id.* (Geiser Aff.)

If the use of pancuronium bromide is unacceptable for killing animals, it cannot be acceptable in killing human beings. The standards of decency in Texas must have evolved to the point of treating humans with more humanity and dignity than we treat our animals. Texas is not the only State to use pancuronium bromide as part of the lethal injection process; the States who use lethal injection copied each other's techniques when the process became fashionable in the late 1970s. Oklahoma and Texas were the first to codify the method. The fact that the other States use the same chemical is therefore not evidence of the standards of decency not having evolved. They are locked in to the same standards, and they are waiting for a State to take the lead in modernizing the method in accordance with contemporary standards.

A punishment is 'cruel' under the Eighth Amendment when it includes "something more than the mere extinguishment of life." *In re Kemmler*, 136 U.S. 436, 447 (1890). The aim is to reduce the punishment as far as possible to no more than that of death itself. The humiliation of being executed using a drug which is banned for use in animal euthanasia makes the current

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<sup>2</sup> The TEX HEALTH AND SAFETY CODE codified Senate Bill 572 and House Bill 1115, which were signed into law by the Governor of Texas on May 14, 2003.

execution procedure something more than the mere extinction of life. The standards of decency have evolved to make such a humiliation unacceptable.

2. **Pancuronium Bromide is Illegal in Animal Euthanasia, and Therefore Its Use on Humans Offends Human Dignity.**

The United States Supreme Court has made clear that the principle of human dignity is central to the Eighth Amendment's cruel and unusual punishments clause, and that this principle of dignity goes beyond the mere infliction of physical pain or suffering. *See Trop v. Dulles*, 356 U.S. 86, 101 (1958). Human dignity can be offended in unconstitutional ways through unacceptable stigmatization of an inmate or through other means that may not involve excessive pain or suffering. In *Furman v. Georgia*, 408 U.S. 238 (1972), the Court explained this principle of human dignity as follows: "The State, even as it punishes, must treat its members with respect for their intrinsic worth as human beings. A punishment is 'cruel and unusual,' therefore, if it does not comport with human dignity. . ." *Id.* at 270. The Court went on to hold that "The primary principle is that a punishment must not be so severe as to be degrading to the dignity of human beings. Pain, certainly, may be a factor in the judgment." *Id.* at 271. The Court continued, "Yet the Framers also knew 'that there could be exercises of cruelty by laws other than those which inflicted bodily pain or mutilation.' *Id.* (internal citations omitted). The Court concluded although "[t]here may be involved no physical mistreatment, no primitive torture," severe mental pain may be inherent in the infliction of a particular punishment. . . The true significance of these punishments is that they treat members of the human race as nonhumans, as objects to be toyed with and discarded." *Id.* at 272-3 (internal citations omitted).

This principle was implicitly applied in *Rupe v. Wood*, 863 F. Supp. 1315, 1321 (W.D. Wash. 1994). In *Rupe*, the federal district court declared that, although death by hanging at that time was not generally considered to be unconstitutional, if there is significant risk of decapitation in the hanging of an obese death row inmate the hanging would violate the Eighth Amendment. Such a hanging would not increase the inmate's pain or physical suffering, but it would offend the principle of dignity to treat an inmate in such a manner.<sup>3</sup>

If the State of Texas were permitted to execute [NAME OF CLIENT], or any other human being, pursuant to a procedure that would be deemed inhumane if used in the euthanasia of animals, then it would certainly violate the Eighth Amendment principle of human dignity. This is true regardless of whether it would create the kind of horrifying and excruciating experience that is possible under the Texas procedure.

The Texas procedure also offends the dignity of our society as well as the dignity of the inmate. If it offends the dignity of the inmate, then it necessarily offends society's sense of dignity. When the state executes one of its citizens, it does so in the name of all of its citizens, and all citizens therefore have a constitutionally protected interest in ensuring that executions are carried out in a humane way.

### **3. An Alternative Method is Available.**

It should not be left to the defendant to suggest a more humane alternative to Texas' lethal injection procedure. However, there is at least one such alternative. The most common method of euthanasia for domesticated animals is a single intravenous injection of sodium

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<sup>3</sup>The issue of execution by hanging was later held moot because of a change in the Washington capital statute removing a presumption in favor of hanging. *Rupe v. Wood*, 93 F.3d 1434, 1438 (9<sup>th</sup> Cir. 1996).

pentobarbital, which, like sodium thiopental, quickly creates its anesthetic effect. But sodium pentobarbital is quite different from sodium thiopental in other important respects: it is more stable, its anesthetic effect lasts much longer, and it will bring about death within a two or three minute period, which is less time than is required to complete the long process under the Texas protocol. Sodium pentobarbital is inexpensive. A simple method of making a single injection of sodium pentobarbital would carry virtually none of the risks of causing inhumane suffering that are inherent in the Texas lethal injection procedure.

The question of what might constitute minimal contemporary standards of decency also must be considered in light of the availability of alternatives. Defendant submits that normal citizens of our state would rebel against the idea of using the present lethal injection procedure if they understood that Texas could easily develop a safe, simple, and properly regulated procedure that would involve a single injection of sodium pentobarbital, the most commonly used method in the euthanasia of domesticated animals.

In light of this alternative, the state can offer no justification or excuse for its antiquated and barbaric method.

#### 4. Conclusion

Although Texas' lethal injection procedure is outdated and inhumane, time stands still for it in Texas and other states while society marches on toward a more humane standard of decency. The law of the land should afford even the vilest criminal the same dignity afforded to an animal *in extremis*. It is of no moment that society may view a murderer as a life form lower than that of an animal. Although some may subscribe to this view, the law does not permit us to punish men via methods we consider beneath the dignity of animals.



C.

**THE ADMINISTRATION OF SODIUM THIOPENTAL AND PANCURONIUM BROMIDE IN THE LETHAL INJECTION PROCEDURE AMOUNTS TO STATE-SPONSORED TORTURE IN VIOLATION OF INTERNATIONAL LAW.**

Torture is prohibited by the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. 23 ILM 1027 (1984). The United States is a party to this agreement and its provisions must be applied in full. The United States signed this treaty on April 18, 1988 and ratified it on October 21, 1994. See Status of Ratification of the Convention Against Torture available at [www.ohchr.org/english/law/cat-ratify.htm](http://www.ohchr.org/english/law/cat-ratify.htm) (website for Office of the United Nations High Commissioner for Human Rights updated as of November 2, 2004).

*The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment prohibits torture and cruel, inhuman or degrading treatment or punishment. Torture is defined in Article 1, 1 of the Convention as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as. . .punishing him for an act he or a third person has committed. . ." 23 ILM 1027.*

*Thus, execution by means of lethal injection is substantially likely to result in torture such that international law is violated. The prisoner can physically feel the horrific pain of the lethal injection process if the anesthesia effects of sodium thiopental have worn off, or if it was not properly administered in the first place. In addition, the prisoner will experience atrocious mental torture as he will be unable to communicate (physically or orally) the horrific agonizing pain he is experiencing due to the paralytic effects of the pancuronium bromide. Article 2, 2 of the Convention requires: "each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction." Id*

Thus, this court is required to act in accordance with this provision and rule that the chemical cocktail presently applied during the lethal injection process is illegal.

Further, if the court does not find this horrific suffering tantamount to torture, section 1 in Article 16 of the Convention requires Texas to "undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture. . ." *Id.* The use of pancuronium bromide in the lethal injection process, when it is illegal to use it in the euthanasia of animals, makes the procedure cruel and inhuman and degrading. Therefore, the Court is still obliged to find the current lethal injection procedure to be a violation of international law and the dignity of mankind, even if it does not believe the present procedure amounts to torture

### III.

## ARGUMENT

### A.

**Defendant PRESENTS A COLORABLE CLAIM THAT LETHAL INJECTION – AS IT IS CURRENTLY ADMINISTERED IN TEXAS – PRODUCES UNNECESSARY PAIN, TORTURE, AND LINGERING DEATH, AND VIOLATES THE EIGHTH AMENDMENT.**

The Eighth Amendment's proscription against cruel and unusual punishment forbids the infliction of unnecessary pain in the execution of a sentence of death. *Louisiana ex rel. Francis v. Resweber*, 329 U.S. 459, 463 (1947) (opinion of Reed, J.); *Fierro v. Gomez*, 865 F. Supp. 1387, 1413 (N.D. Cal. 1994) (execution by lethal gas in California held unconstitutional where evidence indicated "death by this method is not instantaneous. Death is not extremely rapid or within a matter of seconds. Rather . . . inmates are likely to be conscious for anywhere from

fifteen seconds to one minute from the time that the gas strikes their face” and “during this period of consciousness, the condemned inmate is likely to suffer intense physical pain” from “air hunger”; “symptoms of air hunger include intense chest pains . . . acute anxiety, and struggling to breath”), *aff’d*, 77 F.3d 301, 308 (9th Cir. 1996), *vacated on other grounds*, 519 U.S. 918 (1996). Further, “[p]unishments are cruel when they involve . . . a lingering death.” *In re Kemmler*, 136 U.S. 436, 447 (1890). A punishment is particularly constitutionally offensive if it involves the *foreseeable* infliction of suffering. *Furman v. Georgia*, 408 U.S. 238, 273 (1973), citing *Resweber, supra* (had failed execution been intentional and not unforeseen, punishment would have been, like torture, “so degrading and indecent as to amount to a refusal to accord the criminal human status.”)

It is not only foreseeable, it is predictable that death by lethal injection as it is currently practiced in Texas—using a paralytic agent in combination with a sedative—will produce unnecessary pain, torture, and lingering death. Evidence has existed for at least fifty years that the “drugs used in lethal injections pose a substantial threat of torturous pain to persons being executed.” *Chaney v. Heckler*, 718 F.2d 1174, 1178 (C.A.D.C. 1983), *overturned on other grounds, Heckler v. Chaney*, 470 U.S. 821 (1985) (citing ROYAL COMMISSION ON CAPITAL PUNISHMENT, 1949-1953 REPORT (1953)). The Court of Appeals in *Chaney* found: “substantial and uncontroverted evidence to support their claim that execution by lethal injection poses a serious risk of cruel, protracted death. Even a slight error in dosage or administration can leave a prisoner conscious but paralyzed while dying, a sentient witness of his or her own slow, lingering asphyxiation.” *Id.* at 1191 (internal citation omitted.)

Further, the Texas lethal injection protocol has not changed since it was first used in 1982. *Judge Denies Stays of Three Executions*, HOUSTON CHRONICLE, Dec. 9, 2003, at A29 (quoting a TDCJ official who acknowledges that no changes have been made to the procedure in place since 1982). What has changed over the last two decades, however, is that numerous states, most recently the State of Texas, have enacted statutes regulating the euthanasia of animals which preclude using the same combination of drugs currently administered to human beings during executions. If evolving standards of decency, as reflected by legislative action and the professional association of veterinarians, preclude the use of these particular drugs when killing a dog or a cat, then certainly those same standards of decency would require a more humane, readily available version of the lethal injection for human beings. “The basic concept underlying the Eighth Amendment is nothing less than the dignity of man . . . The Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.” *Atkins v. Virginia*, 536 U.S. 304, 311-2 (2002) (quoting *Trop v. Dulles*, 356 U.S. 86, 100-101(1958)).

1. **The combination of chemicals used to execute inmates in Texas creates a strong probability of unnecessary suffering and torture.**

The State of Texas executes its inmates by poisoning them with a lethal combination of three chemical substances: sodium thiopental, or sodium pentothal (an ultrashort-acting barbiturate); pancuronium bromide, or Pavulon (a curare-derived agent which paralyzes all skeletal or voluntary muscles, but which has no effect whatsoever on awareness, cognition or sensation); and potassium chloride (an extraordinarily painful chemical which activates the nerve fibers lining the person’s veins and which can interfere with the rhythmic contractions of the

heart and cause cardiac arrest). While each of these chemicals individually creates concern about their use in the execution process, in combination they cannot pass constitutional muster. Far from producing a rapid and sustained loss of consciousness and humane death, this particular combination of chemicals often causes the inmate to consciously suffer an excruciatingly painful and protracted death.

**a. Sodium Thiopental**

Sodium thiopental, or sodium pentothal, is a short-acting barbiturate which is ordinarily used to render a surgical patient unconscious for mere minutes, only in the induction phase of anesthesia, specifically so that the patient may re-awaken and breathe on their own power if any complications arise in inserting a breathing tube pre-surgery. Because of its brief duration, sodium thiopental may not provide a sedative effect throughout the entire execution process. Dr. Dennis Geiser, chairman of the Department of Large Animal Clinical Sciences at the College of Veterinary Medicine at the University of Tennessee, recently explained:

Sodium thiopental is not a proper anesthetic for use in lethal injection. Indeed, the American Veterinary Medical Association standards for euthanasia indicate that the ideal barbituric acid derivative for animal euthanasia should be potent, long acting, stable in solution, and inexpensive. Sodium pentobarbital (not sodium thiopental) best fits these criteria. Sodium thiopental is a potent barbituric acid derivative but very short acting with one therapeutic dose.

Affidavit of Dr. Dennis Geiser, attached as Exhibit 2.

Due to the chemical combination used in the Texas execution process, there is also a probability that the sedative effect of the sodium thiopental is neutralized by the second chemical, pancuronium bromide. As Dr. Mark Heath, Assistant Professor of Clinical Anesthesia at Columbia University states:

Sodium thiopental is an ultra short-acting barbiturate. It would not be used to maintain a patient in a surgical plane of anesthesia for purposes of performing surgical procedures. It is unnecessary, and risky, to use a short-acting anesthesia in the execution procedure. If the solution of sodium thiopental comes into contact with another chemical, such as pancuronium bromide, the mixture of the two will cause the sodium thiopental immediately to precipitate or crystallize. These factors are significant in the risk of the inmate not being properly anesthetized, especially since no-one checks that the inmate is unconscious before the second drug is administered.

Affidavit of Dr. Heath, attached as Exhibit 1.

Concerns about using sodium thiopental are heightened by the lack of medical personnel, the lack of proper monitoring of the inmate during the process and the lack of inmate-specific dosing of the barbiturate. According to Dr. Geiser:

[T]he dosage of thiopental sodium must be measured with some degree of precision, and the administration of the proper amount of the dosage will depend on the concentration of the drug and the size and condition of the subject. Additionally, the drug must be administered properly so that the full amount of the dosage will directly enter the subject's blood stream at the proper rate. If the dosage is not correct, or if the drug is not properly administered, then *it will not adequately anaesthetize the subject, and the subject may experience the untoward effects of the neuromuscular blocking agent.* . . .

Exhibit 2, (Geiser Aff.) (emphasis supplied).<sup>4</sup>

Moreover, drug manufacturers warn that without careful medical supervision of dosage and administration, sedatives can cause "paradoxical excitement" and can heighten sensitivity

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<sup>4</sup> The problems inherent in Texas' use of sodium thiopental and pancuronium bromide cannot be directly discounted because of TDCJ's sudden administrative decision in 1989 to cease conducting autopsies of executed individuals. Texas' failure to collect any post-mortem data precludes the State from presenting any direct evidence to argue that the dosage of sodium pentothal injected into the veins of Texas condemned inmates still provides therapeutic levels of sodium pentothal: the terrible specter of inadequate anesthesia can never be ruled out for any Texas condemned inmate. *But see* Dr. Leonidas G. Koniaris et. al., *Inadequate Anaesthesia in Lethal Injection for Execution*, 365 LANCET 1412 (2005) (finding insufficient levels of anaesthesia in post-mortem studies of executed individuals.)

to pain. See PHYSICIANS DESK REFERENCE, 50<sup>th</sup> Ed. (1996) at 438-440. Manufacturers warn against administration by intravenous injection unless a patient is unconscious or out of control.

*Id.*

**b. Pancuronium Bromide**

The second chemical involved in the lethal injection process, pancuronium bromide, or Pavulon, is a derivative of curare that acts as a neuromuscular blocking agent. If, as is probable in the Texas execution process, the sedative effect of the sodium thiopental is ineffective or neutralized, the pancuronium bromide would serve only to mask the excruciating pain of the condemned inmate. Pancuronium bromide makes the patient look serene because of its paralytic effect on the muscles. The face muscles cannot move or contract to show pain and suffering. It therefore provides a 'chemical veil' over the proceedings. By completely paralyzing the inmate, pancuronium bromide masks the normal physical parameters that an anesthesiologist or surgeon would rely upon to determine if a patient is completely unconscious and within a proper surgical plane of anesthesia. Because pancuronium bromide is an invisible chemical veil and not a physical veil like a blanket or hood that is easily identifiable, the use of pancuronium bromide in lethal injection creates a double veil. It disguises the fact that there is a disguise over the process.

Exhibit 1, (Heath Aff.).

In *Abdur' Rahman v. Bell*, Dr. Geiser asserted that while Pavulon paralyzes skeletal muscles, including the diaphragm, it has *no effect on consciousness or the perception of pain or suffering*. Administration of Pavulon is "*like being tied to a tree, having darts thrown at you, and feeling the pain without any ability to respond.*" Exhibit 2, (Geiser Aff.) (emphasis added). This assertion is corroborated by the experience of eye surgery patient, Carol Weihrer. During Ms. Weihrer's surgery the sedative she received was ineffectual and Ms. Weihrer was conscious of the entire surgery. Due to the administration of a neuromuscular blocking agent like pancuronium bromide, however, she was unable to indicate her consciousness to doctors:

I experienced what has come to be known as Anesthesia Awareness, in which I was able to think lucidly, hear, perceive and feel everything that was going on during the surgery, but I was unable to move. It burnt like the fires of hell. It was the most terrifying, torturous experience you can imagine. The experience was worse than death.

Affidavit of Carol Weihrer, attached as Exhibit 3. In short, the second chemical, pancuronium bromide, or Pavulon, in the lethal injection protocol serves no purpose other than to guarantee that the condemned inmate will be forced into a total chemical straightjacket and gag while he consciously experiences the potassium chloride ravaging his internal organs. Persons viewing the lethal injection procedure and the public will never realize that a cruel fraud is being perpetrated upon them: instead of witnessing an inmate quiet and motionless while being "put to sleep," they are in fact witnessing the cover-up of a deliberate act of excruciating torture for which only the inmate is fully conscious.

**c. Potassium Chloride**

Finally, the use of potassium chloride itself raises important Eighth Amendment concerns. James J. Ramsey, a certified perfusionist and currently the Program Director in the Program in Cardiovascular Perfusion at Vanderbilt Medical Center, Nashville, Tennessee, gave a lengthy statement in Abdur Rahman's case regarding the use of potassium chloride in lethal injections. Perfusion involves the study of medicine related to the artificial circulation technologies, including but not limited to the operation of the heart-lung machine, a medical device commonly used during open-heart surgeries of all kinds. The arena involving the chemical arrest of the heart lies uniquely within the practice of the clinical perfusionist.



Regarding the administration and efficacy of potassium chloride in the lethal injection context, Ramsey stated that:

It is my understanding that during the performance of lethal injection as carried out during the death penalty, potassium (and other agents) are administered intravenously to the defendant. Such administration is, in my professional opinion based upon my knowledge, training, and experience, and within a reasonable degree of medical certainty, *entirely inadequate in order to achieve reasonable cardiac standstill*. Since the agents are introduced intravenously, there will occur an immediate dilution of the solution, weakening any potential effect it may have. By illustration an 80 kilogram person would have a blood volume of approximately 5.5 to 6 liters. An administration of 100 milliequivalents of potassium intravenously to the 80 kilogram person would result in a blood concentration of only 16.6 meq/L. Such a dose is according to scientific literature... and as evidenced in my practice, inadequate to achieve cardiac standstill.

Furthermore, it must be remembered that [in contrast to the administration of potassium chloride in the surgical context] such administration is: (1) NOT DIRECTED INTO THE CORONARY ARTERIES; (2) DIRECTED ONLY IN AN ANTEGRADE FASHION; AND (3) IS AT NORMOTHERMIA (37 degrees Celsius, NOT at five degrees Celsius). Without reasonable data regarding any one person's anatomic and pathologic state as to their myocardial function prior to administration of the potassium, there can be no reasonable certainty that the potassium solution intended to arrest the heart would be distributed in a fashion that would arrest the heart. Thus, the very orchestrated and methodical methods used in surgery should not be thought of as optimizing the arrest of the heart, but should be considered to be necessary as the only reasonable means of ensuring that the heart is arrested. If the heart could be arrested by intravenous obstructions, cardiac surgery today would be a very different animal-science and research tells us that mere intravenous injection of potassium is not sufficient.

...

Additionally, in my professional opinion and within a reasonable degree of medical certainty, barring an effective cardiac arrest, it is entirely possible that a lethal injection as I understand it will serve ONLY to arrest the function of the pulmonary system, thereby causing a state of ischemia to the entire body (no oxygen delivery), which, in turn, will ultimately arrest the heart as well (with no oxygen delivery to it.) *As a result, the defendant is simply suffocated due to lack of oxygen.*

Affidavit of James J. Ramsey (emphasis supplied), in *Abu-Ali Abdur' Rahman v. Bell*, 226 F.3d

696 (6<sup>th</sup> Cir.2000).

2. **The danger of lethal injection creating unnecessary suffering and torture is greatly increased by the lack of physician involvement in the execution process.**

The risk of inflicting severe and unnecessary pain and suffering upon the Defendant in the lethal injection process is particularly grave in Texas because the meager procedures and protocols designed by TDCJ fail to include safeguards regarding the manner in which the execution is to be carried out. They fail to establish the minimum qualifications and expertise required of the personnel performing the critical tasks in the lethal injection procedure. Finally, they fail to establish appropriate criteria and standards that these personnel must rely upon in exercising their discretion during the lethal injection procedures. For instance, TDCJ execution protocols do not explain what to do in case an IV port cannot be established. The experience of other states teaches that, in such a case, a medically trained person must perform a “cut down” to expose a deeply buried vein, or perform an infraclavicular catheterization, or other invasive medical procedure to facilitate the subsequent lethal injection such as an attempt to establish a port through the carotid enclosure in the neck. In Texas, the physician’s services are limited to his or her pronouncing death.

There are no directions and no standards for the necessary training, education, or expertise of the personnel who will be exercising this critical discretion and performing these tasks and duties. TDCJ guidelines totally fail to articulate the criteria or standards that such personnel must rely upon in exercising this discretion.<sup>5</sup> The consequences of this failure will likely result in the unnecessary and wanton infliction of severe pain and suffering.

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<sup>5</sup> The protocols also fail to provide any direction regarding how TDCJ is to obtain these controlled substances in a manner that insures the drugs are effective, how to store the drugs in a manner to keep them effective, how to “mix” the drugs, or how to store and label the drugs once they have been prepared and transported to the execution chamber.

Perhaps most importantly, there are no apparent answers to critical questions governing a number of crucial tasks and procedures in the lethal injection procedure such as:

- (a) the minimum qualifications and expertise required for the different personnel performing the tasks involved in the lethal injection procedure after the catheter is inserted;
- (b) the methods for obtaining, storing, mixing, and appropriately labeling the drugs, the minimum qualifications and expertise required for the person who will determine the concentration and dosage of each drug to give, and the criteria that shall be used in exercising this discretion;
- (c) the manner in which the IV tubing, three-way valve, saline solution and other apparatus shall be modified or fixed in the event it is malfunctioning during the execution process, the minimum qualifications and expertise required of the person who shall have the discretion to decide to attempt such action, and the criteria that shall be used in exercising this discretion;
- (d) the manner in which the heart monitoring system shall be modified or fixed in the event it is malfunctioning during the execution process, the minimum qualifications and expertise required of the person who shall have the discretion to decide to attempt such action, and the criteria that shall be used in exercising this discretion;
- (e) the manner in which the IV catheters shall be inserted into the condemned prisoner, the minimum qualifications and expertise required of the person who is given the responsibility and discretion to decide when efforts at inserting the IV catheters should be abandoned and the cut down procedure begun, and the criteria that shall be used in exercising this discretion;<sup>6</sup>

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<sup>6</sup>See Deborah Denno, *When Legislatures Delegate Death: The Troubling Paradox Behind State Uses of Electrocution and Lethal Injection and What It Says About Us*, 63 OHIO ST. L.J. 63, n. 324 (February 2002) (citing Thomas O. Finks, *Lethal Injection: An Uneasy Alliance of Law and Medicine*, 4 J. LEGAL MED 383, 397 (1983) (explaining that "(l)ethal injections may not work effectively on diabetics, drug users, and people with heavily pigmented skins"); Harold L. Hirsh, *Physicians as Executioners*, LEGAL ASPECTS OF MED. PRAC., Mar. 1984, at 1 (noting that "if a person is nervous or fearful, his veins become constricted"); *On Lethal Injections and the Death Penalty*, 12 HASTINGS CENTER REP. 2, 2 (Oct. 1982) (explaining that lethal injections are particularly difficult to administer "to people with heavily pigmented skins . . . and to diabetics and drug users"); Jacob Weisberg, *This is Your Death: Capital Punishment: What Really Happens*, NEW REPUBLIC, July 1, 1991, at 23 (describing the 45 minutes required for technicians

- (f) the manner in which the condition of the condemned prisoner will be monitored to confirm that proceeding to the next procedure would not inflict severe and unnecessary pain and suffering on the condemned prisoner;
- (g) the minimum qualifications and expertise required of the person who is given the responsibility and discretion to order the staff to divert from the established protocols if necessary to avoid inflicting severe and unnecessary pain and suffering on the condemned prisoner, and the criteria that shall be used in exercising this discretion; and
- (h) the minimum qualifications and expertise required of the person who is given the responsibility and discretion to insure that appropriate procedures are followed in response to unanticipated problems or events arising during the lethal injection procedure, and the criteria that shall be used in exercising this discretion.

This disturbing lack of outlined medical procedure and personnel in Texas contributes in part to the numerous execution errors in Texas. *See, e.g.,* Deborah Denno, *When Legislatures Delegate Death: The Troubling Paradox Behind State Uses of Electrocution and Lethal Injection and What It Says About Us*, 63 OHIO ST. L.J. 63, 111 (February 2002) (quoting Fred Leuchter, “the highly controversial and later-discredited creator of much, if not most, of the execution equipment in this country,” as admitting that “‘about eighty percent’ of the lethal injections in Texas ‘have had one problem or another.’”)

Some of the previous errors in Texas executions include:<sup>7</sup>

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to find a serviceable vein in a former heroin addict); Another U.S. Execution Amid Criticism Abroad, N.Y. TIMES Apr. 24, 1992, at B7 (reporting that the difficulty in executing Billy Wayne White was due to his history as a heroin user).)

<sup>7</sup>Sources for this information include: Michael Radelet, “On Botched Executions” Peter Hodgkinson and William Schabas (eds.), *Capital Punishment: Strategies for Abolition* (Cambridge University Press, 2001) and Stephen Trombley, *The Execution Protocol*, (1992).

- ! **Stephen Peter Morin** – March 13, 1985 – “Technicians” punctured him repeatedly in both arms and legs for 45 minutes before they found a suitable vein.
- ! **Randy Woolls** – August 20, 1986 – A drug addict, Woolls had to help the executioner technicians find a good vein for the execution.
- ! **Elliot Johnson** – June 24, 1987 – Executioners struggled for 35 minutes to insert the catheter into his veins.
- ! **Raymond Landry** – December 13, 1988 – Pronounced dead 40 minutes after being strapped to the execution gurney and 24 minutes after the drugs first started flowing into his arms. Two minutes into the killing, the syringe came out of Landry’s vein, spraying the deadly chemicals across the room toward the witnesses. The execution team had to reinsert the catheter into the vein. The curtain was drawn for 14 minutes so witnesses could not see the intermission.
- ! **Stephen McCoy** – May 24, 1989 – Had such a violent physical reaction to the drugs (heaving chest, gasping, choking, etc.) that one of the witnesses (male) fainted, crashing into and knocking over another witness. Houston attorney Karen Zellars, who represented McCoy and witnessed the execution, thought that the fainting would catalyze a chain reaction. The Texas Attorney General admitted the inmate “seemed to have a somewhat stronger reaction,” adding “The drugs might have been administered in a heavier dose or more rapidly.”
- ! **Billy Wayne White** – April 23, 1992 – It took 47 minutes for authorities to find a suitable vein, and White eventually had to help.
- ! **Justin Lee May** – May 7, 1992 – May had an unusually violent reaction to the lethal drugs. According to Robert Wernsman, a reporter for the Item (Huntsville), Mr. May “gasp[ed], cough[ed] and rear[ed] against his heavy leather restraints, coughing once again before his body froze . . .” Associated Press reporter Michael Graczyk wrote, “He went into coughing spasms, groaned and gasped, lifted his head from the death chamber gurney and would have arched his back if he had not been belted down. After he stopped breathing his eyes and mouth remained open.”
- ! **Joseph Cannon** – April 22, 1998 – After his final statement, the execution commenced. A vein in Cannon’s arm collapsed and the needle popped out. Seeing this, Cannon lay back, closed his eyes, and exclaimed to the witnesses, “It’s come undone.” Officials then pulled a curtain to block the view of witnesses, reopening it fifteen minutes later when a

weeping Cannon made a second final statement and execution process resumed.

3. **Euthanasia Practices that Include the Use of a Sedative in Conjunction with a Neuromuscular Blocking Agent Violate Evolving Standards of Decency**

Recent legislative changes regarding pet euthanasia cast serious doubt as to whether the Texas execution protocol passes constitutional muster. Since 1981, at least nineteen states, including Texas, have passed laws that preclude the use of a sedative in conjunction with a neuromuscular blocking agent. Moreover, in the year 2000, the leading professional association of veterinarians promulgated guidelines for euthanasia that preclude the practice. Those guidelines specifically state that “[a] combination of pentobarbital with a neuromuscular blocking agent is not an acceptable euthanasia agent.” See AVMA Panel on Euthanasia, *2000 Report of the American Veterinary Medical Association Panel on Euthanasia*, 218 JAVMA, 669, 680 (2001), attached as Exhibit 4. A euthanasia practice widely considered unfit for a dog is certainly unfit for humans as well, especially in light of the fact that the State may easily accomplish the same result with a more humane combination of chemicals. Given the consistency in the statutory regulation of euthanasia, the method currently practiced by the State of Texas is outside the bounds of evolving standards of decency.

Texas recently passed legislation mandating inhumane methods of euthanizing animals which precludes the use of neuromuscular blocking agents such as pancuronium bromide. TEX. HEALTH & SAFETY CODE Article 821.052(a), (b) (specifically prescribing the methods of euthanasia for cats and dogs in the custody of animal shelters and requiring that shelters euthanize all other animals “only in accordance with the applicable methods, recommendations, and procedures set forth in the 2000 Report of the American Veterinary Medical Association

Panel on Euthanasia . . .”). With this legislation, Texas has joined numerous states with laws recognizing that use of these chemicals would be inhumane in the euthanasia of dogs and cats. *See* Florida, FLA. STAT. §§ 828.058 and 828.065 (enacted in 1984); Georgia, GA. CODE ANN. § 4-11-5.1 (enacted in 1990); Maine, ME. REV. STAT. ANN., tit. 17, § 1044 (enacted in 1987); Maryland, MD. CODE ANN. Criminal Law, § 10-611 (enacted in 2002); Massachusetts, MASS. ANN. LAWS ch. 140, § 151A (enacted in 1985); New Jersey, N.J. STAT. ANN. § 4:22-19.3 (enacted in 1987); New York, N.Y. AGRIC. & MKTS LAW § 374 (enacted in 1987); Oklahoma, OKLA. STAT. tit. 4, § 501 (enacted in 1981); Tennessee, TENN. CODE ANN. § 44-17-303 (enacted in 2001). Other States have implicitly banned such practices. *See* Illinois, 510 ILL. COMP. STAT. 70/2.09 (2005); Kansas, KAN. STAT. ANN. § 47-1718(a) (2005); Louisiana, LA. REV. STAT. ANN. § 3:2465 (2005); Missouri, 2 CSR 30-9.020(F)(5) (2005); Rhode Island, R.I. GEN. LAWS § 4-1-34 (2005), Connecticut, CONN. GEN. STAT. § 22-344a (2005); Delaware, DEL. CODE ANN. tit. 3, § 8001 (2005); Kentucky, KY. REV. STAT. ANN. § 321.181(17) (2004); South Carolina, S.C. CODE ANN. § 47-3-420 (2004).

In addition to explicitly forbidding the use of sedatives with a neuromuscular blocking agent, the American Veterinary Medical Association stressed that only personnel trained and knowledgeable in anesthetic techniques should administer potassium chloride (the third drug in Texas’ lethal injection) in conjunction with any anesthesia:

[i]t is of utmost importance that personnel performing this technique are trained and knowledgeable in anesthetic techniques, and are competent in assessing anesthetic depth appropriate for administration of potassium chloride intravenously. Administration of potassium chloride intravenously requires animals to be in a surgical plane of anesthesia characterized by loss of consciousness, loss of reflex muscle response, and loss of response to noxious stimuli.

Exhibit 4, (*AVMA Report*) at 681. The statutes in at least five other states, in addition to Texas, expressly reference the AVMA guidelines when delimiting humane methods of animal euthanasia. Illinois, 510 ILL. COMP. STAT. 70/2.09 (2005); Kansas, KAN. STAT. ANN. § 47-1718(a) (2005); Louisiana, LA. REV. STAT. ANN. § 3:2465 (2005); Missouri, 2 CSR 30-9.020(F)(5) (2005); Rhode Island, R.I. GEN. LAWS § 4-1-34 (2005).

“A claim that punishment is excessive is judged not by the standards that prevailed in 1685 when Lord Jeffreys presided over the ‘Bloody Assizes’ or when the Bill of Rights was adopted, but rather by those that currently prevail.” *Atkins v. Virginia*, 536 U.S. 304, 311 (2002). The scope of the substantive protections afforded by the Eighth Amendment, as the *Atkins* Court reiterated, is defined by “evolving standards of decency that mark the progress of a maturing society.” *Id.* at 312 (quoting *Trop v. Dulles*, 356 U.S. 86, 101 (1958)). The *Atkins* Court re-emphasized that evolving standards of decency are best reflected in the various relevant laws enacted throughout the country:

“Proportionality review under those evolving standards should be informed by ‘objective factors to the maximum possible extent.’ We have pinpointed that the ‘clearest and most reliable objective evidence of contemporary values is the legislation enacted by the country’s legislatures.” *Id.* (internal citations omitted). Moreover, “[i]t is not so much the number of these States that is significant, but the consistency of the direction of change.” *Id.* at 315.

The unmistakable trend over the past two decades of condemning the use of neuromuscular blocking agents, such as pancuronium bromide, in euthanasia is clear evidence that the practice violates the Eighth Amendment ban on cruel and unusual punishment. These recent alterations of euthanasia protocols for pets underscore the inhumanity of the chemicals



currently used in Texas. It can hardly be disputed that if certain euthanasia techniques are banned as overly cruel to animals, those same practices must violate our current standards of decency regarding the execution of humans.

### **MOTION TO ABATE**

Defendant would show that this case at the time of filing this motion is in the process of voir dire and the full jury has not been selected or seated. While the jury was being selected in this case the U.S. Supreme Court granted cert. to review the issues raised in this motion. See *Ralph Baze, et al vs. John D. Rees, et al*. The U.S. Supreme Court has abated the scheduled execution of a Texas Death Row inmate and has halted the execution of other inmates in other states due to the granting of review on this issue.

Further the prosecution has on multiple occasions told prospective jurors and selected jurors that the method of execution raised in this motion will be employed on this defendant if a death sentence is returned.

Due process and the 8<sup>th</sup> amendment of the U.S. constitution and the parallel provisions of the Texas Constitution dictate that these proceedings should be abated until the U.S. Supreme Court decides the issues raised in this motion. Failure to abate these proceedings will result in the defendant being tried under

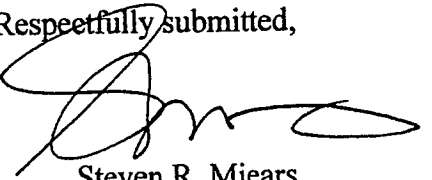
law that is potentially unconstitutional and the selection of jurors who were told an improper and illegal method of execution would be followed.

### CONCLUSION AND PRAYER FOR RELIEF

Wherefore, premises considered, the accused, this Defendant, respectfully requests that this Court:

1. Hold Texas' capital punishment statute to be unconstitutional because its current method of lethal injection is prohibited by the Eighth Amendment to the UNITED STATES CONSTITUTION; and/or
  2. Hold Texas' capital punishment statute to be unconstitutional because its current method of lethal injection violates Article 1, section 13 of the TEXAS CONSTITUTION; and/or
  3. Preclude the use of the current lethal injection protocol to execute ~~DEFENDANT~~ <sup>DEFENDANT</sup> because it violates prevailing international law and, specifically, the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, to which the United States is a signatory; and
  4. For other and further relief to which ~~DEFENDANT~~ <sup>DEFENDANT</sup> may be entitled in law or in equity.
4. Abate and stay these proceedings until the U.S. Supreme Court has resolved the case raising these issues in which it has granted review.

Respectfully submitted,



Steven R. Mears

Lawyer for Defendant

SBOT# 14025600

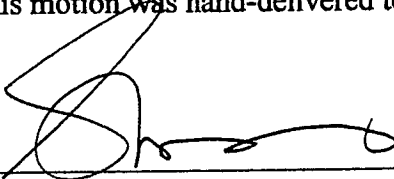
P.O. Box 736

Bonham, Texas 75418

903 640 4963

Certificate of Service

A copy of this motion was hand-delivered to the State on the October 1, 2007

  
\_\_\_\_\_

Steven Mears



**AFFIDAVIT OF CAROL WEIHRER**  
**STATE OF TEXAS V JESUS FLORES**

NO. 877994A

IN THE COUNTY OF FAIRFAX            }  
THE STATE OF VIRGINIA               }

BEFORE ME, the undersigned authority, did personally appear Carol Wehrer, and having been duly sworn, did state upon her oath the following:

"My name is Carol Wehrer. I underwent an eye operation in which full general anesthesia was administered but the brain scrambling drugs were not effective. I therefore experienced what has come to be known as Anesthesia Awareness, in which I was able to think lucidly, hear, perceive and feel everything that was going on during the surgery, but I was unable to move. It burnt like the fires of hell. It was the most terrifying, torturous experience you can imagine. The experience was worse than death.

To the best of my knowledge, all of the foregoing is true and correct."

Signed: Carol Wehrer

Carol Wehrer  
President and Founder  
Anesthesia Awareness Campaign, Inc.  
<http://www.anesthesiaawareness.com>

SWORN AND SUBSCRIBED BEFORE ME this 6th day of November, 2003

Signed: [Signature]

Notary Public in and for the State of Virginia

**AFFIDAVIT OF DR. MARK HEATH, ANESTHESIOLOGIST**

**STATE OF TEXAS V JESUS FLORES**

**NO. 877994A**

**IN THE COUNTY OF NEW YORK }**

**THE STATE OF NEW YORK }**

BEFORE ME, the undersigned authority, did personally appear Dr. Mark Heath, and having been duly sworn, did state upon his oath the following:

"My name is Dr Mark Heath and I am assistant professor of clinical anesthesia at Columbia University. I obtained my bachelor of arts from Harvard University in 1983 magna cum laude and graduated with honors from University of North Carolina Medical School in 1987. My practice is devoted one-third to clinical patient care, one-third education of residents and fellows, and one-third research.

**The Use and Effects of Pancuronium Bromide**

Pancuronium bromide is a neuromuscular blocking agent. Its effect is that it renders the muscles unable to contract but it does not affect the brain or the nerves. It is used in surgery to ensure that there is no movement and that the patient is securely paralyzed so that surgery can be performed without contraction of the muscles. Pancuronium bromide is not administered until the patient is under a proper plane of anesthesia. The anesthesia must first be administered such that the patient is unconscious and does not feel, see or perceive the procedure.

**The Chemical Veil**

Pancuronium bromide makes the patient look serene because of its paralytic effect on the muscles. The face muscles cannot move or contract to show pain and suffering. It therefore provides a 'chemical veil' over the proceedings. By completely paralyzing the inmate, pancuronium bromide masks the normal physical parameters that an anesthesiologist or surgeon would rely upon to determine if a patient is completely unconscious and within a proper surgical plane of anesthesia. Because pancuronium bromide is an invisible chemical veil and not a physical veil like a blanket or hood that is easily identifiable, the use of pancuronium bromide in lethal injection creates a double veil. It disguises the fact that there is a disguise over the process.

**Pancuronium Bromide is Unnecessary in Lethal Injections**

If pancuronium bromide were eliminated from the lethal injection method, it would not decrease the efficacy or the humaneness of the procedure. It is unnecessary for administering a dose of drugs in the course of an execution. It serves no legitimate purpose.

### **The Substantial Risks of Inhumane Suffering**

There are significant risks that the inmate in Texas' lethal injection procedure will not be rendered unconscious by the sodium thiopental (the first drug of the series to be administered), and will therefore experience the psychologically horrific effects of pancuronium bromide.

Sodium thiopental is an ultra short-acting barbiturate. It would not be used to maintain a patient in a surgical plane of anesthesia for purposes of performing surgical procedures. It is unnecessary, and risky, to use a short-acting anesthesia in the execution procedure. If the solution of Sodium thiopental comes into contact with another chemical, such as pancuronium bromide, the mixture of the two will cause the sodium thiopental immediately to precipitate or crystallize. These factors are significant in the risk of the inmate not being properly anesthetized, especially since no-one checks that the inmate is unconscious before the second drug is administered.

Sometimes batches of drugs from the manufacturer are bad – they either do not have any potency, or the manufacturer mistakenly mislabels the drug. Also, the sodium thiopental may have been stored in powder form beyond its shelf life, or the sodium thiopental might not be properly mixed into solution form.

The numerous contingencies on administering an IV- missing the vein, an extravenous injection, solution washing back into the IV bag- require a physician to monitor the intake of the solution not just paramedics. The physical distance between the executioner, the person pushing the syringe, and the inmate introduces additional needless risk. The fall back procedure for inability to locate a vein is a cut down procedure instead of a percutaneous, more modern procedure. This increases the risk of excessive suffering.

The third, fatal, drug to be administered is potassium chloride. Potassium activates all the nerve fibers inside the vein and the veins have many nerve fibers inside them. It would basically deliver the maximum amount of pain the veins can deliver. It would be agonizing for an inmate who is not properly anesthetized.

All of the foregoing is true and correct.”

Signed: \_\_\_\_\_



Dr Mark Heath  
Department of Anesthesiology  
Columbia University  
New York  
New York

SWORN AND SUBSCRIBED BEFORE ME this 13<sup>th</sup> day of November, 2003

Signed: \_\_\_\_\_



Notary Public in and for the State of New York

LIA PASCALE  
Notary Public, State of New York  
No. ~~02300029~~ 02 Pt 601571  
Qualified in New York County  
Commission Expires 7/21/07



**AFFIDAVIT OF DR DENNIS GEISER, PROFESSOR OF VETERINARY  
SCIENCE**

**STATE OF TEXAS V JESUS FLORES**

**NO. 877994A**

**IN THE COUNTY OF Knox }**

**THE STATE OF TENNESSEE }**

**BEFORE ME, the undersigned authority, did personally appear Dr. Dennis Geiser, and having been duly sworn, did state upon his oath the following:**

**"My name is Dr Dennis Geiser. I am a professor of veterinary science at the University of Tennessee and the Chairman of the Department of Large Animal Clinical Sciences at the College of Veterinary Medicine at the University of Tennessee.**

**Pancuronium Bromide is Prohibited in the Euthanasia of Animals**

**It is significantly below the standard of acceptable practice to use an injection of a neuromuscular blocking agent (of which Pancuronium Bromide is one) for animal euthanasia. The use of that drug is outlawed in a number of States. The use of that drug is inhumane because neuromuscular blocking agents do not produce depression of the central nervous system that would results in anesthesia or analgesia These agents produce a peripheral paralysis of skeletal muscles, rendering an individual unable to respond to external stimuli while still being able to perceive pain and discomfort.**

**The use of pancuronium bromide is strictly prohibited by the ethical standards of the American Veterinary Medical Association which apply throughout the country. Under the American Veterinary Medical Association standards, there is no allowance for the use of pancuronium bromide in euthanasia under any set of circumstances.**

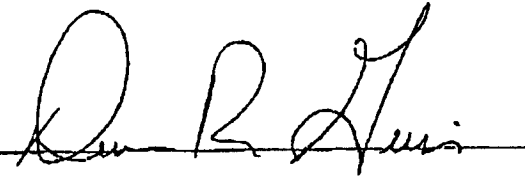
**Sodium Thiopental is Not a Proper Anesthetic**

**Sodium thiopental is not a proper anesthetic for use in lethal injection. Indeed, the American Veterinary Medical Association standards for euthanasia indicate that the ideal barbituric acid derivative for use in euthanasia should be potent, long acting, stable in solution, and inexpensive. Sodium pentobarbital (not sodium thiopental) best fits this criteria. Sodium pentothal is a potent barbituric acid derivative but very short acting with one therapeutic dose.**

The AVMA guidelines also state that the use of sodium pentobarbital and neuromuscular blocking agent is an unacceptable euthanasia procedure in animals.

All of the foregoing is true and correct."

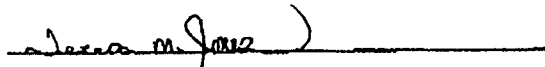
Signed: \_\_\_\_\_



Dr Dennis Geiser  
University of Tennessee

SWORN AND SUBSCRIBED BEFORE ME this 12 day of November, 2003

Signed: \_\_\_\_\_



Notary Public in and for the State of Tennessee

My commission expires June 28, 2006

SUBPEONA DUCES TECUM REQUEST FORM -  
CRIMINAL

NAME & ADDRESS OF PARTY TO SERVED: CUSTODIAN OF  
RECORDS Jail Division COLLIN COUNTY SHERIFFS DEPARTMENT

CASE NO: 380-81972-07

DATE OF APPEARANCE: INSTANTER

TIME OF APPEARANCE: INSTANTER

TESTIFY IN BEHALF OF: KOSOU/CHANTHAKOUMMANE - DEFENDANT

ARTICLES TO BE BROUGHT TO COURT: ANY AND ALL JAIL RECORDS

RELATING TO THE CONFINEMENT OF DEFENDANT, INCLUDING BUT NOT

LIMITED TO; HOUSEING ASSIGNMENTS, MEDICAL RECORDS, DISCIPLINARY

RECORDS, TELEPHONE CALLS RECEIVED OR MADE TO DEFENDANT

ANY AUDIO OR VIDEO RECORDING MADE OF DEFENDANT

FIRM: STEVE MERRIS & KEITH GORE

ATTORNEY: [Signature]

ADDRESS: 211 N. MAIN ST.

BOONHAM, TX. 75418

PHONE#: 903-640-4963

COLLIN COUNTY CONSTABLE TO SERVE \_\_\_\_\_

OUT OF COUNTY CONSTABLE TO SERVE \_\_\_\_\_

ATTORNEY TO SERVE ✓

FILED

2007 OCT -9 AM 9:14

HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS

BY [Signature] DEPUTY

*Issued 10-9-07 & gave to attorney*

EVENT # 9/7/07-380 CAP DATE: OCT. 8, 2007

STATE OF TEXAS

Vs.

KOSOL CHANTHAKUMMANE

Type of Case: CAP MURDER Case number: 380-81972-07

**JURY CHOSEN**

1. SHARON REED

7. JAMES HARRIS

2. MARION BROWN JR.

8. JACQUES ROBITAILLE

3. NE/SA LAMBETH

9. ALAN SCHWARTZ

4. SANDRA DICK

10. DEBBIE WILSON

5. TERRY MULLIS

11. KENNETH DRAKE

6. ADAM NEHAMA

12. PATRICIA GILCHRIST

13. MICHAEL McCALPIN alt

14. KIMBERLY SMITH "

Bailiff

James Varner

Dates

JURORS served: 10/8/07

Dates REMAINING PANEL served: SEE BAILIFF PAY SHEETS,  
9/7/07 - 380 CAP

THE STATE OF TEXAS	§	IN THE 380 <sup>th</sup> JUDICIAL
	§	
	§	
V.	§	DISTRICT COURT OF
	§	
	§	
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

**CHARGE OF THE COURT**

MEMBERS OF THE JURY:

The defendant, Kosoul Chanthakoummene, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about July 8, 2006, in Collin County, Texas.

To this charge the defendant has pleaded not guilty.

1.

Our law provides that a person commits murder when he intentionally or knowingly causes the death of an individual.

A person commits capital murder when he intentionally causes the death of an individual in the course of committing or attempting to commit the offense of robbery.

2.

Our law provides that a person commits robbery if, in the course of committing theft and with intent to obtain or maintain control of the property, he intentionally or knowingly causes bodily injury to another.

3.

A person commits theft if he unlawfully appropriates property with intent to deprive the owner of property. Appropriation of property is unlawful if it is without the owner's effective consent.

"Appropriate" means to acquire or otherwise exercise control over property other than real property.

"Consent" means assent in fact, whether express or apparent. Consent is not effective if induced by deception or coercion.

"Effective consent" includes consent by a person legally authorized to act for the owner.

"Deprive" means to withhold property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the property is lost to the owner.

"Owner" means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the actor.

"Bodily injury" means physical pain, illness, or any impairment of physical condition.

"Deadly weapon" means a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury or anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

"In the course of committing" an offense means conduct that occurs in an attempt to commit, during the commission, or in the immediate flight after the attempt or commission of the offense intended.

An "attempt" to commit an offense occurs if, with specific intent to commit an offense, a person does an act amounting to more than mere preparation that tends, but fails, to effect the

commission of the offense intended.

“Individual” means a human being who is alive.

4.

With respect to the offense of capital murder:

A person acts intentionally, or with intent, with respect to a result of his conduct when it is his conscious objective or desire to cause the result.

With respect to the offense of robbery:

A person acts intentionally, or with intent, with respect to the nature of his conduct or a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to the result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

5.

You are instructed that if there is any testimony before you in this case regarding the defendant's having committed offenses other than the offense alleged against him in the indictment in this case, you cannot consider said testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offenses, if any were committed, and even then you may only consider the same in determining the defendant's motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or

accident, and for no other purpose.

6.

All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that he has been arrested, confined or indicted or otherwise charged with the offense gives no rise to an inference of guilt at his trial. The law does not require a defendant to prove his innocence or produce any evidence at all. The presumption of innocence alone is sufficient to acquit, unless the jurors are satisfied beyond a reasonable doubt of the defendant's guilt after careful and impartial consideration of all the evidence in the case.

The prosecution has the burden of proving the defendant guilty and it must do so by proving each and every element of the offense charged beyond a reasonable doubt and if it fails to do so, you must acquit the defendant.

In the event you have a reasonable doubt as to the defendant's guilt after considering all the evidence before you and these instructions, you will acquit and say by your verdict "Not Guilty".

The burden of proof in all criminal cases rests upon the State throughout the trial and never shifts to the defendant.

7.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that on or about July 8, 2006, the defendant, Kosoul Chanthakoummane, did intentionally cause the death of Sarah Walker, an individual, hereinafter called deceased, by stabbing or cutting deceased with a knife, a deadly weapon, or by stabbing or cutting deceased



with an object, a deadly weapon, whose exact nature and identity is unknown to the grand jurors, and the defendant intentionally did cause the death of deceased while the defendant was in the course of committing or attempting to commit the offense of robbery, you will find the defendant guilty of capital murder as charged in the indictment.

If you do not so believe, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not Guilty."

8.

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a right afforded to a defendant, and in the event he elects not to testify, that fact cannot be taken as a circumstance against him. In this case, the defendant has elected not to testify, and you are instructed that you cannot and must not refer or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against the defendant.

9.

You are instructed that you are not to allow yourselves to be influenced in any degree whatsoever by what you think or surmise the opinion of the Court to be. The Court has no right by any word or any act to indicate any opinion respecting any matter of fact involved in this case, nor to indicate any desire respecting its outcome. The Court has not intended to express any opinion respecting any matter of fact in this case, and if you have observed anything which you have or may interpret as the Court's opinion upon any matter of fact in this case, you must wholly disregard it.

10.

At times throughout the trial the Court has been called upon to pass on the question of whether or not certain offered evidence might properly be admitted. You are not to be concerned with the reasons for such rulings and are not to draw any inferences from them.

11.

You are instructed that any statements of counsel made during the course of the trial or during argument not supported by the evidence, or statements of law made by counsel not in harmony with the law as stated to you by the Court in these instructions, are to be wholly disregarded.

12.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, and no juror is permitted to communicate to any other juror anything he might have heard regarding the case from any source other than the witness stand.

13.

After argument of Counsel, you will retire and select one of your members as your presiding juror. It is the duty of your presiding juror to preside at your deliberations and to vote with you in arriving at a verdict, and when you have unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form attached hereto, and signing the same as presiding juror.

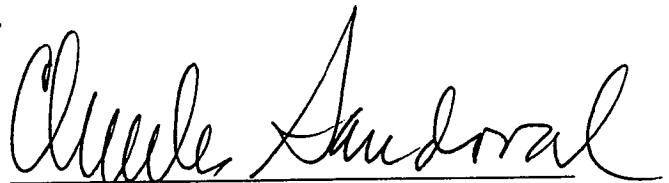
In deliberating on this case you are not to refer to any matter or issue not in evidence before you; nor talk about this case to anyone not of your jury.

After you have retired to consider your verdict, no one has any authority to communicate with you except the officer who has you in charge. You may communicate with the Court in

writing, signed by your presiding juror, through the officer who has you in charge. Do not attempt to talk with the officer, the attorneys, or the Court concerning any questions you may have.

If you as jurors disagree as to the testimony of any witnesses, you may, upon applying to the Court through your presiding juror, request to have read the Court Reporter's notes on that portion of the witness's testimony in dispute. If you desire to hear any portion of the testimony of any witness, you must certify through your presiding juror that you are in disagreement as to the testimony of the witness, and you should request that part of the testimony on the point in dispute, and only that point which is in dispute.


You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given to the testimony, but you are bound to receive the law from the Court, which is herein given you, and be governed thereby.

A handwritten signature in black ink, appearing to read "Charles Sandoval", written over a horizontal line.

Charles Sandoval, Judge  
380<sup>th</sup> Judicial District Court  
Collin County, Texas

## VERDICT FORMS

We, the jury, find the defendant, Kosoul Chanthakoummane, guilty of capital murder, as charged in the indictment.

  
\_\_\_\_\_  
Presiding Juror  
Printed Name: Kenny Drake

-OR-

We, the jury, find the defendant, Kosoul Chanthakoummane, not guilty.

\_\_\_\_\_  
Presiding Juror  
Printed Name: \_\_\_\_\_

THE STATE OF TEXAS	§	IN THE 380 <sup>th</sup> JUDICIAL
	§	
	§	
V.	§	DISTRICT COURT OF
	§	
	§	
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

**CHARGE OF THE COURT**

MEMBERS OF THE JURY:

By the verdict returned in this case you have found the defendant, Kosoul Chanthakoummane, guilty of the offense of capital murder as charged in the indictment. It is now your duty to determine, from all the evidence in this case, the answers to certain questions called "Special Issues" in this charge. The Court instructs you in answering these "Special Issues" as follows:

1.

The mandatory punishment for the offense of capital murder of which you have found the defendant guilty is either death or confinement in the Institutional Division of the Texas Department of Criminal Justice for life without parole.

2.

You are instructed that in answering Special Issue No. 1, you shall answer "Yes" or "No".

The State has the burden of proving beyond a reasonable doubt that Special Issue No. 1 should be answered "Yes".

In deliberating on Special Issue No. 1 you shall consider all the evidence at the guilt or

innocence stage and the punishment stage, including evidence of the defendant's background and character or the circumstances of the offense that militates for or mitigates against the imposition of the death penalty.

You may not answer Special Issue No. 1 "Yes" unless you agree unanimously.

You may not answer Special Issue No. 1 "No" unless ten (10) or more jurors agree.

Members of the jury need not agree on what particular evidence supports a negative answer to Special Issue No. 1.

You are further instructed that you are not to be swayed by mere conjecture, passion, prejudice, public opinion, or public feeling in considering all of the evidence before you and in answering Special Issue No. 1.

You are instructed that if you return an affirmative finding, that is a "Yes" answer, to Special Issue No. 1, then and only then are you to answer Special Issue No. 2.

3.

You are instructed that in answering Special Issue No. 2, you shall answer "Yes" or "No".

You may not answer Special Issue No. 2 "No" unless you agree unanimously.

You may not answer Special Issue No. 2 "Yes" unless ten (10) or more jurors agree.

Members of the jury need not agree on what particular evidence supports an affirmative answer to Special Issue No. 2.

In answering Special Issue No. 2 you shall consider mitigating evidence to be evidence that a juror might regard as reducing the defendant's moral blameworthiness.

You are again instructed that you are not to be swayed by mere conjecture, passion, prejudice, public opinion or public feeling in considering all of the evidence before you in answering Special

Issue No. 2.

4.

You are instructed that if the jury returns an affirmative answer to Special Issue No. 1 and a negative answer to Special Issue No. 2, the Court will sentence the defendant to death. Should you return a negative answer to Special Issue No. 1 or an affirmative answer to Special Issue No. 2, the Court will sentence the defendant to confinement in the Institutional Division of the Texas Department of Criminal Justice for life without parole.

A defendant sentenced to confinement for life without parole is ineligible for release from the Department of Criminal Justice on parole.

5.

You are instructed that if there is any testimony before you in this case regarding the defendant's having committed offenses other than the offense alleged against him in the indictment in this case, you cannot consider said testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offenses, if any were committed, and even then you may only consider the same in determining the answers to the Special Issues.

6.

You are instructed that a witness may be impeached by showing that he has previously been convicted of a felony offense or a crime involving moral turpitude. Such impeachment evidence may be considered by you to aid you in determining (if it does) the weight, if any, to be given the testimony of the witness at trial and his credibility.

7.

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a right afforded to a defendant, and in the event he elects not to testify, that fact cannot be taken as a circumstance against him. In this case, the defendant has elected not to testify, and you are instructed that you cannot and must not refer or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against the defendant.

8.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, and no juror is permitted to communicate to any other juror anything he might have heard regarding the case from any source other than the witness stand.

In deliberating on this case you are not to refer to any matter or issue not in evidence before you; nor talk about this case to anyone not of your jury.

You are instructed that your answers to the Special Issues shall be arrived at by due deliberation and not by drawing lots or by any other method of chance.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given to the testimony, but you are bound to receive the law from the Court, which is herein given you, and be governed thereby.

A handwritten signature in black ink, appearing to read "Charles Sandoval", written over a horizontal line.

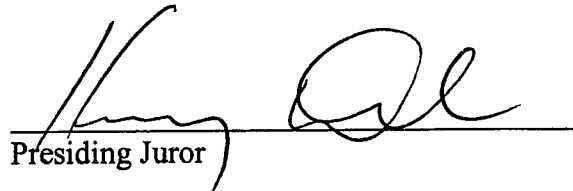
Charles Sandoval, Judge  
380<sup>th</sup> Judicial District Court  
Collin County, Texas



SPECIAL ISSUE NO. 1

Do you find from the evidence beyond a reasonable doubt that that there is a probability that the defendant, Kosoul Chanthakoummane, would commit criminal acts of violence that would constitute a continuing threat to society?

ANSWER: YES

  
Presiding Juror

If your answer to this Special Issue is "No", and is not unanimous, then the 10 or more jurors who agree should sign individually below.

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IF YOUR ANSWER TO SPECIAL ISSUE NO. 1 IS "YES", YOU SHALL PROCEED TO SPECIAL ISSUE NO. 2. IF YOUR ANSWER TO SPECIAL ISSUE NO. 1 IS "NO", YOU SHALL CEASE YOUR DELIBERATIONS.

SPECIAL ISSUE NO. 2

Do you find from the evidence, taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, Kosoul Chanthakoummane, that there is a sufficient mitigating circumstance or circumstances to warrant a sentence of life imprisonment without parole rather than a death sentence be imposed?

ANSWER: NO

  
Presiding Juror

If your answer to this Special Issue is "Yes", and is not unanimous, then the 10 or more jurors who agree should sign individually below.

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**Cause Number 380-81972-07**

<b>STATE OF TEXAS</b>	§	<b>IN THE 380TH JUDICIAL</b>
<b>Plaintiff,</b>	§	
	§	
	§	<b>DISTRICT COURT OF</b>
<b>VS.</b>	§	
	§	
<b>KOSOUL CHANTHAKOUMMANE,</b>	§	
<b>Defendant.</b>	§	<b>COLLIN COUNTY, TEXAS</b>

October 17, 2007

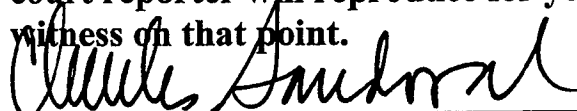
I have received the following note:

1. Can we please have the testimony of the Texas criminal investigator from special prosecution in Huntsville, TX?
2. Can we please have the testimony of Dr. Fisher?
3. Can we please have the testimony of the second defense expert that helped develop the Texas classification system for the TDCJ?
4. Can we please receive the TX classification system the defense used for the testimony of both defense experts?
5. Can we receive testimony from the North Carolina Assistant Superintendent regarding timeline of when Defendant entered North Carolina jails and when he was transferred from one prison to another?

Kenny Drake, Presiding Juror

**ANSWER: If the jury disagrees as to the statement of any witness, they may, upon applying to the court, have reproduced that part of such witness' testimony on the point in dispute.**

**If you report that you disagree concerning the statement of a witness and specify the point on which you disagree, the court reporter will reproduce for you the testimony of the witness on that point.**



Charles Sandoval, Judge Presiding

(1) Can we please have the testimony of the Texas Criminal Investigator from Special Prosecution in Huntsville, TX?

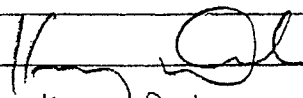
(2) Can we please have the testimony of Dr. Fisher?

(3) Can we please have the testimony of the Second Defense expert, that helped develop the Texas classification system for the TDCJ?

(4) Can we please receive the TX classification system the Defense used in the testimony of both Defense experts?

(5) Can we receive testimony from the North Carolina Assistant Superintendent regarding timeline of when Defendant entered North Carolina jails and when he was transferred from one prison to another?

Presiding Judge

  
Kenny Drake

**Cause Number 380-81972-07**

**STATE OF TEXAS**

**Plaintiff,**

**VS.**

**KOSOUL CHANTHAKOUMMANE,  
Defendant.**

§  
§  
§  
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§  
§

**IN THE 380TH JUDICIAL**

**DISTRICT COURT OF**

**COLLIN COUNTY, TEXAS**

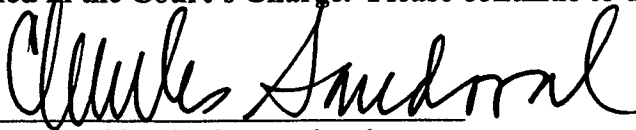
October 17, 2007

I have received the following note:

Was the Texas code for classification submitted as evidence? If so, can we receive it?

Presiding Juror – Kenneth Drake

**Answer: You have received all the evidence, as well as the law, contained in the Court's Charge. Please continue to deliberate.**

A handwritten signature in black ink, appearing to read "Charles Sandoval", written over a horizontal line.

Honorable Charles Sandoval

① Was the Texas code for classification submitted as evidence? If so, can we receive it?

Preciding Iron  
Kenny Drake



CASE NO. 380-81972-07 SINGLE COUNT INCIDENT NO./TRN: 9097099218 (A001)

THE STATE OF TEXAS

v.

KOSOUL CHANTHAKOUMMANE

STATE ID No.: TX 07801297

§  
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IN THE 380TH JUDICIAL

DISTRICT COURT

COLLIN COUNTY, TEXAS

**JUDGMENT OF CONVICTION BY JURY**

**SENTENCE BY JURY TO DEATH**

Judge Presiding:	HON. CHARLES SANDOVAL	Date Judgment Entered:	October 17, 2007
Attorney for State:	Gregory Davis and Curtis Howard	Attorney for Defendant:	Steven Mears and Keith Gore
Offense for which Defendant Convicted:			
Capital Murder			
Charging Instrument:		Statute for Offense:	
INDICTMENT		Section 19.03(a)(2) Penal Code	
Date of Offense:			
July 8, 2006			
Degree of Offense:		Plea to Offense:	
Capital Felony		NOT GUILTY	
Verdict of Jury:		Findings on Deadly Weapon:	
GUILTY		YES, A KNIFE AND OBJECT UNKNOWN TO THE GRAND JURY	
Plea to 1 <sup>st</sup> Enhancement Paragraph:	N/A	Plea to 2 <sup>nd</sup> Enhancement/Habitual Paragraph:	N/A
Findings on 1 <sup>st</sup> Enhancement Paragraph:	N/A	Findings on 2 <sup>nd</sup> Enhancement/Habitual Paragraph:	N/A
Punished Assessed by:	Date Sentence Imposed:	Date Sentence to Commence:	
JURY	October 17, 2007	October 17, 2007	
Punishment and Place of Confinement: DEATH			
<input type="checkbox"/> SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR N/A .			
Fine:	Court Costs:	Restitution:	Restitution Payable to:
\$0	\$ 363.32	\$0	<input type="checkbox"/> VICTIM (see below) <input type="checkbox"/> AGENCY/AGENT (see below)

Sex Offender Registration Requirements do not apply to the Defendant. TEX. CODE CRIM. PROC. chapter 62.

The age of the victim at the time of the offense was N/A years.

If Defendant is to serve sentence in TDCJ, enter incarceration periods in chronological order.

Time Credited:	From 7-6-06 to 10-17-07	From _____ to _____	From _____ to _____
	From _____ to _____	From _____ to _____	From _____ to _____

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2786



If Defendant is to serve sentence in county jail or is given credit toward fine and costs, enter days credited below.

N/A DAYS NOTES: N/A

All pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in Collin County, Texas. The State appeared by her District Attorney.

**Counsel / Waiver of Counsel (select one)**

- ☒ Defendant appeared in person with Counsel.  
☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

It appeared to the Court that Defendant was mentally competent and had pleaded as shown above to the charging instrument. Both parties announced ready for trial. A jury was selected, impaneled, and sworn. The INDICTMENT was read to the jury, and Defendant entered a plea to the charged offense. The Court received the plea and entered it of record.

The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and ORDERED it entered upon the minutes of the Court.

**Punishment Assessed by Jury / Court / No election (select one)**

- ☒ **Jury.** Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation, the jury was brought into Court, and, in open court, it returned its verdict as indicated above.  
☐ **Court.** Defendant elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.  
☐ **No Election.** Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

The Court FINDS Defendant committed the above offense and ORDERS, ADJUDGES AND DECREES that Defendant is GUILTY of the above offense. The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

And on the 17th day of October, 2007 this cause being again called, the State appeared by her Criminal District Attorney in Collin County, Texas and the defendant, KOSOUL CHANTHAKOUMMANE, appeared in person, his counsel also being present, and the same jury being called to assess the punishment, evidence was presented to the same jury in the matter of assessing punishment. The same jury after hearing all the evidence presented by the State and the defendant for purpose of assessing punishment, and having heard argument of counsel, again retired in charge of the proper officer to consider their verdict, and afterward were again brought into court by the proper officer, the defendant and his counsel being present, and in due form of law returned into open court the following verdict, which was received by the Court and is herenow entered upon the minutes of court, to-wit:

**SPECIAL ISSUE NO. 1**

Do you find from the evidence beyond a reasonable doubt that there is a probability that the defendant, KOSOUL CHANTHAKOUMMANE, would commit criminal acts of violence that would constitute a continuing threat to society?

ANSWER: YES

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2787

2





**SPECIAL ISSUE NO. 2**

Do you find from the evidence, taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, **KOSOUL CHANTHAKOUMMANE**, that there is a sufficient mitigating circumstance or circumstances to warrant a sentence of life imprisonment rather than a death sentence be imposed?

ANSWER: NO

We, the jury, return in open Court the above answers to the Special Issues submitted to us, and the same is our verdict in this case.

**OCTOBER 17, 2007**  
**DATE**

**KENNETH DRAKE**  
**PRESIDING JUROR**

The Court **ORDERS** Defendant punished as indicated above. The Court **ORDERS** Defendant to pay all fines, court costs, and restitution as indicated above.

**Punishment Options (select one)**

- ☒ **Confinement in State Jail or Institutional Division.** The Court **ORDERS** the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the **Director, Institutional Division, TDCJ**. The Court **ORDERS** Defendant to be confined for the period and in the manner indicated above. The Court **ORDERS** Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence.
- ☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court **ORDERS** Defendant immediately committed to the custody of the Sheriff of **Collin** County, Texas on the date the sentence is to commence. Defendant shall be confined in the **Collin** County Jail for the period indicated above. The Court **ORDERS** that upon release from confinement, Defendant shall proceed immediately to the Collin County District Clerk. Once there, the Court **ORDERS** Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.
- ☐ **Fine Only Payment.** The punishment assessed against Defendant is for a **FINE ONLY**. The Court **ORDERS** Defendant to proceed immediately to the Office of the **Collin** County **District Clerk**. Once there, the Court **ORDERS** Defendant to pay or make arrangements to pay all fines and court costs as ordered by the Court in this cause.

**Execution / Suspension of Sentence (select one)**

- ☒ The Court **ORDERS** Defendant's sentence **EXECUTED**.
- ☐ The Court **ORDERS** Defendant's sentence of confinement **SUSPENDED**. The Court **ORDERS** Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

**IT IS THEREFORE, CONSIDERED, ORDERED, ADJUDGED, AND DECREED** that the said Defendant, **KOSOUL CHANTHAKOUMMANE**, is guilty of the offense of **CAPITAL MURDER** and that the Defendant committed the said offense on the **8<sup>th</sup> day of July, 2006** and that the punishment of the said Defendant is fixed, as set by law, at **DEATH** and that the State of Texas do have and recover of and from the said Defendant all costs in this proceeding incurred for which let execution issue.

And the Defendant being asked by the Court if sufficient reason existed why the sentence of this Court should not be pronounced, failed to give such reason; whereupon the Court proceeded, in the presence of the said Defendant and his attorney to pronounce sentence as follows:



WHEREAS, the Defendant, **KOSOUL CHANTHAKOUMMANE**, has been adjudged guilty of the offense of **CAPITAL MURDER** by the jury and the jury having further answered that there is a probability that the defendant, **KOSOUL CHANTHAKOUMMANE**, would commit criminal acts of violence that would constitute a continuing threat to society, and the jury having further answered after taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, that there is **NO** sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed.

**IT IS THE ORDER AND SENTENCE OF THIS COURT** that you, **KOSOUL CHANTHAKOUMMANE**, having been adjudged to be guilty of capital murder and whose punishment has been assessed by the verdict of the jury and the judgment of this Court at Death, shall be remanded to the custody of the Sheriff of Collin County and transported to and kept in custody by the Director of the Institutional Division of the Texas Department of Criminal Justice, until some future date to be determined later, upon which day, at some hour before sunrise, in a room arranged for the purpose of execution, the said Director, acting by and through the executioner designated by said Director as provided by law, **IS HEREBY COMMANDED, ORDERED AND DIRECTED** to carry out this sentence of death by intravenous injection of a substance or substances in a lethal quantity sufficient to cause your death and until you are dead, such procedure to be determined and supervised by the said Director of the Institutional Division of the Texas Department of Criminal Justice.

The Clerk of this Court shall issue this Order of Execution and Death Warrant and deliver the same to the Sheriff of Collin County, Texas, who is hereby **ORDERED**, upon receipt, to deliver the same to the Director of the Institutional Division of the Texas Department of Criminal Justice and make due return thereof showing that this Order of Execution and Death Warrant has been served and delivered as directed.

**IT IS FINALLY ORDERED** that the Director of the Institutional Division of the Texas Department of Criminal Justice shall endorse the Sheriff's return showing receipt of this Order of Execution and Death Warrant.

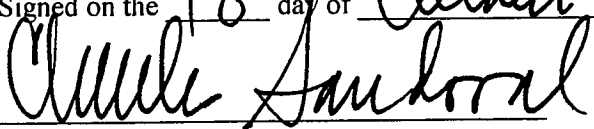
The Court **ORDERS** that Defendant is given credit noted above on this sentence for the time spent incarcerated.

It is further **ORDERED** that the cost to Collin County for the payment of this defendant's court-appointed attorney, if any, is taxed against this defendant as court cost. The District Clerk is granted leave to amend the court cost to reflect this amount without the necessity of a further order.

Following the disposition of this cause, the defendant's fingerprints were, in open court, placed upon a Judgment Certificate of Defendant's Prints. Said Certificate is attached hereto and is incorporated by reference as a part of this Judgment.

Furthermore, the following special findings or orders apply:



Signed on the 18 day of October, 2007  
  
CHARLES SANDOVAL  
380<sup>TH</sup> JUDICIAL DISTRICT COURT  
COLLIN COUNTY, TEXAS

0433

2789

CLERK'S CERTIFICATE

THE STATE OF TEXAS )

COUNTY OF COLLIN )

I, HANNAH KUNKLE, CLERK OF THE DISTRICT COURTS OF COLLIN  
COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE ABOVE AND FOREGOING  
IS A TRUE AND CORRECT COPY OF:  
INDICTMENT  
JUDGMENT & SENTENCE

IN CAUSE NO. 380-81972-07

ENTITLED STATE OF TEXAS VS.

KOSOUL CHANTHAKOUMMANE

AS THE SAME APPEARS OF RECORD IN MY OFFICE IN THE MINUTES OF THE  
DISTRICT COURT OF COLLIN COUNTY, FOR THE 380<sup>TH</sup> DISTRICT COURT OF TEXAS.

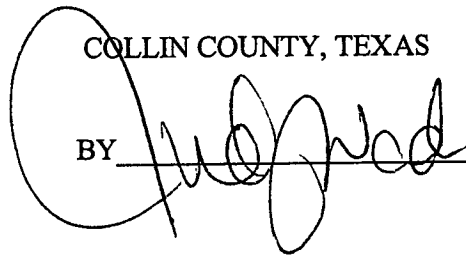
GIVEN UNDER MY HAND AND SEAL OF SAID COURT, AT OFFICE IN  
MCKINNEY, TEXAS, THIS THE 18<sup>TH</sup> DAY OF OCTOBER 2007  
, A.D.

HANNAH KUNKLE, CLERK

OF THE DISTRICT COURTS

COLLIN COUNTY, TEXAS

BY

A large, stylized handwritten signature in black ink, likely belonging to the Deputy Clerk, is written over a horizontal line.

DEPUTY

CAUSE NO. 380-81972-07

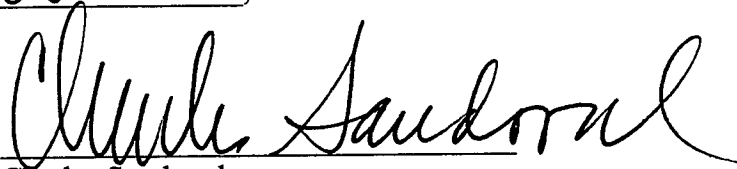
THE STATE OF TEXAS	§	IN THE 380TH JUDICIAL
	§	
VS.	§	DISTRICT COURT OF
	§	
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

ORDER APPOINTING ATTORNEY

On October 22, 2007, came on to be considered the above numbered and styled cause and the Court has determined that C. Wayne Huff, should be appointed to represent the defendant, KOSOUL CHANTHAKOUMMANE, for purpose of appeal.

IT IS THEREFORE ORDERED, that C. WAYNE HUFF, P.O. Box 2334, Boerne, Texas 78006-2334, (214) 803-4127, who is a practicing attorney of this State, is appointed to represent the aforementioned individual.

SIGNED this the 23 day of October, 2007.

  
Charles Sandoval  
Judge, 380th Judicial District Court

380-81972-07

THE STATE OF TEXAS

VS.

KOSOUL CHANTHAKOUMMANE

§  
§  
§  
§  
§

IN THE DISTRICT COURT

380th JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

**ORDER**

Came on to be heard defendant's request for an appointed attorney, for the purpose of pursuing an article 11.071 writ, and the Court being advised in the same,

IT IS ORDERED that Catherine Bernhard, SBOT NO. 02216575, whose address is P.O. Box 2817, Red Oak, Texas, 75154, (972) 617-5548, be and is hereby appointed to represent the defendant with regard to handling the above writ.

Signed this 23 day of October, 2007.

Charles Sandoval  
Judge Presiding

## \*\* Transmit Conf. Report \*\*

P.1

Oct 24 2007 15:57

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
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District Clerk  
HANNAH KUNKLE

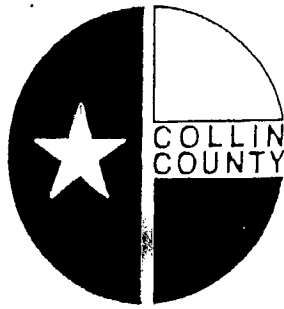
DATE: 10-24-07NUMBER OF PAGES SENT: 19  
(including cover sheet)TO: Office of Court Admin.  
ATTN: Judicial InformationFROM: DISTRICT CLERK'S OFFICE  
P. O. BOX 578  
MCKINNEY, TEXAS 75070

FAX #: \_\_\_\_\_

FAX #: 512-936-2423BY: Judy W  
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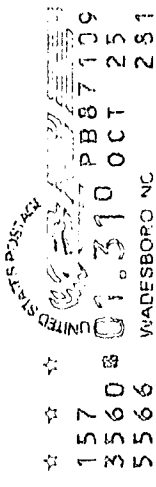
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BY: Judy W  
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COMMENTS:

CLERK OF THE SUPERIOR COURT  
ANSON COUNTY  
PO BOX 1064  
WADESBORO, NC 28170-1064



Clerk of the 320<sup>th</sup> District Court  
Collin County Courthouse  
McKinney, Texas 75069



IN THE DISTRICT COURT  
20 A JUDICIAL DISTRICT  
COUNTY OF Anson  
STATE OF NORTH CAROLINA

In the Matter of a Petition for  
Hearing "Pursuant to the Uniform Act  
To Secure Attendance of Witnesses from  
Without a State: regarding the attendance of  
BRUCE CABOT in the matter of the  
State of Texas vs. Kosoul Chanthakoummane,  
No. 380-81972-07, In the 380<sup>th</sup> Judicial District  
Court of Collin County, Texas)

FILED  
2007 SEP 26 P  
ANSON COUNTY, TEXAS  
BY  
No. 07 Cv 380 498

### ORDER TO APPEAR IN TEXAS


On this day BRUCE CABOT appeared in person in response to the Order of the Court to show cause why the Court should not order the said person to appear and testify in the County of Collin County and State of Texas in a criminal prosecution there pending in Cause Number 380-81972-07 in the 380<sup>th</sup> District Court, styled "State of Texas vs. Kosoul Chanthakoummane, and having heard the evidence and considered the Certificate from the Charles Sandoval, Judge of the 380<sup>th</sup> District Court of Collin County, State of Texas, the Court is of the opinion that the said BRUCE CABOT is a material and necessary witness in the said criminal prosecution and that it will not cause an undue hardship on the said witness to appear in Texas and testify in the said cause.

IT IS, THEREFORE, ORDER AND DECREED that the said BRUCE CABOT is to appear before the 380<sup>TH</sup> District Court of Collin County, Texas at the Courthouse in the City of McKinney, Texas on the 14<sup>th</sup> day of October, 2007 at 9:00 o'clock A.M. then and there to testify in the above criminal prosecution there pending.

IT IS THE FURTHER ORDER of the Court that a copy of this Order duly certified by the Clerk of the Court be delivered to the said witness, and further that the Clerk of the Court deliver a certified copy of this Order to the Clerk of the 380<sup>th</sup> District Court of Collin County, Texas at the Collin County Courthouse, McKinney, Texas.

Signed this the 26 day of Sept 2007.

**A TRUE COPY**  
CLERK OF SUPERIOR COURT  
ANSON COUNTY  
By W. J.  
Assistant Deputy Clerk Superior Court

  
\_\_\_\_\_  
Judge Presiding

Superior Court,  
County of Anson  
State of North Carolina

IN THE DISTRICT COURT  
20 A JUDICIAL DISTRICT  
COUNTY OF Anson  
STATE OF NORTH CAROLINA

FILED  
2007 SEP 26 P 3:55  
ANSON COUNTY, CSC  
BY \_\_\_\_\_

In the Matter of a Petition for  
Hearing "Pursuant to the Uniform Act  
To Secure Attendance of Witnesses from  
Without a State: regarding the attendance of  
RAYMOND W. HENDERSON in the matter of the  
State of Texas vs. Kosoul Chanthakoummane,  
No. 380-81972-07, In the 380<sup>th</sup> Judicial District  
Court of Collin County, Texas)

No. 07 CV5 498

### ORDER TO APPEAR IN TEXAS

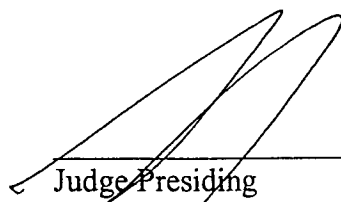
On this day RAYMOND W. HENDERSON appeared in person in response to the Order of the Court to show cause why the Court should not order the said person to appear and testify in the County of Collin County and State of Texas in a criminal prosecution there pending in Cause Number 380-81972-07 in the 380<sup>th</sup> District Court, styled "State of Texas vs. Kosoul Chanthakoummane, and having heard the evidence and considered the Certificate from the Charles Sandoval, Judge of the 380<sup>th</sup> District Court of Collin County, State of Texas, the Court is of the opinion that the said RAYMOND W. HENDERSON is a material and necessary witness in the said criminal prosecution and that it will not cause an undue hardship on the said witness to appear in Texas and testify in the said cause.

IT IS, THEREFORE, ORDER AND DECREED that the said RAYMOND W. HENDERSON is to appear before the 380<sup>TH</sup> District Court of Collin County, Texas at the Courthouse in the City of McKinney, Texas on the 14<sup>th</sup> day of October, 2007 at 9:00 o'clock A.M. then and there to testify in the above criminal prosecution there pending.

IT IS THE FURTHER ORDER of the Court that a copy of this Order duly certified by the Clerk of the Court be delivered to the said witness, and further that the Clerk of the Court deliver a certified copy of this Order to the Clerk of the 380<sup>th</sup> District Court of Collin County, Texas at the Collin County Courthouse, McKinney, Texas.

Signed this the 26 day of Sept 2007.

**A TRUE COPY**  
**CLERK OF SUPERIOR COURT**  
**ANSON COUNTY**  
By W. J.  
Assistant, Deputy, Clerk Superior Court

  
\_\_\_\_\_  
Judge Presiding

Superior Court,  
County of Anson  
State of North Carolina

IN THE SUPERIOR COURT  
20A JUDICIAL DISTRICT  
COUNTY OF ANSON  
STATE OF NORTH CAROLINA

In the matter of a Petition for  
Hearing "Pursuant to the Uniform Act  
To Secure Attendance of Witnesses from  
Without a State" regarding the attendance of  
Jeremy Wilson, Marty Cox, Frank Thuleen,  
Harrison Whitley, Raymond W. Harrison,  
Pamela Allen, Jessie McDonald, Kevin Tuttle,  
Lawrence Parsons, Mike Pittman in the matter of  
State of Texas v. Kosoul Chanthakoummane,  
No. 380-81972-07 (In the 380<sup>th</sup> District Court  
of Collin County, Texas)

FILED  
2001 SEP 26 P 3:55  
ANSON COUNTY, CSC  
BY \_\_\_\_\_  
No. 07 CV 5 498

**ORDER TO APPEAR IN TEXAS**

On this day MARTY COX appeared in person in response to the Order of the Court to show cause why the Court should not order the said person to appear and testify in the County of Collin County and State of Texas in a criminal prosecution there pending in Cause Number 380-81972-07 in the 380<sup>th</sup> District Court, styled "State of Texas vs. Kosoul Chanthakoummane, and having heard the evidence and considered the Certificate from the Charles Sandoval, Judge of the 380<sup>th</sup> District Court of Collin County, State of Texas, the Court is of the opinion that the said MARTY COX is a material and necessary witness in the said criminal prosecution and that it will not cause an undue hardship on the said witness to appear in Texas and testify in the said cause.

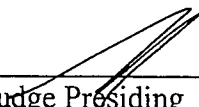
IT IS, THEREFORE, ORDER AND DECREED that the said MARTY COX is to appear before the 380<sup>TH</sup> District Court of Collin County, Texas at the Courthouse in the City of McKinney, Texas on the 14<sup>th</sup> day of October, 2007 at 9:00 o'clock A.M. then and there to testify in the above criminal prosecution there pending.

IT IS THE FURTHER ORDER of the Court that a copy of this Order duly certified by the Clerk of the Court be delivered to the said witness, and further that the Clerk of the Court deliver a certified copy of this Order to the Clerk of the 380<sup>th</sup> District Court of Collin County, Texas at

**A TRUE COPY**  
CLERK OF SUPERIOR COURT  
ANSON COUNTY  
By W. J. S.  
Assistant Deputy Clerk Superior Court

the Collin County Courthouse, McKinney, Texas.

Signed this the 26 day of Sept 2007.

  
\_\_\_\_\_  
Judge Presiding

Superior Court,  
County of Anson  
State of North Carolina

IN THE SUPERIOR COURT  
204 JUDICIAL DISTRICT  
COUNTY OF ANSON  
STATE OF NORTH CAROLINA

In the matter of a Petition for  
Hearing "Pursuant to the Uniform Act  
To Secure Attendance of Witnesses from  
Without a State" regarding the attendance of  
Jeremy Wilson, Marty Cox, Frank Thuleen,  
Harrison Whitley, Raymond W. Harrison,  
Pamela Allen, Jessie McDonald, Kevin Tuttle,  
Lawrence Parsons, Mike Pittman in the matter of  
State of Texas v. Kosoul Chanthakoummane,  
No. 380-81972-07 (In the 380<sup>th</sup> District Court  
of Collin County, Texas)

FILED  
2001 SEP 26 P 3:55  
ANSON COUNTY, CSC  
BY \_\_\_\_\_  
No. 07 Cus 498

**ORDER TO APPEAR IN TEXAS**

On this day LAWRENCE PARSONS appeared in person in response to the Order of the Court to show cause why the Court should not order the said person to appear and testify in the County of Collin County and State of Texas in a criminal prosecution there pending in Cause Number 380-81972-07 in the 380<sup>th</sup> District Court, styled "State of Texas vs. Kosoul Chanthakoummane, and having heard the evidence and considered the Certificate from the Charles Sandoval, Judge of the 380<sup>th</sup> District Court of Collin County, State of Texas, the Court is of the opinion that the said LAWRENCE PARSONS is a material and necessary witness in the said criminal prosecution and that it will not cause an undue hardship on the said witness to appear in Texas and testify in the said cause.

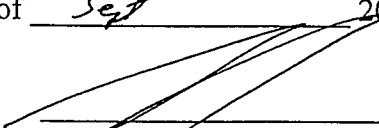
IT IS, THEREFORE, ORDER AND DECREED that the said LAWRENCE PARSONS is to appear before the 380<sup>TH</sup> District Court of Collin County, Texas at the Courthouse in the City of McKinney, Texas on the 14<sup>th</sup> day of October, 2007 at 9:00 o'clock A.M. then and there to testify in the above criminal prosecution there pending.

IT IS THE FURTHER ORDER of the Court that a copy of this Order duly certified by the Clerk of the Court be delivered to the said witness, and further that the Clerk of the Court deliver a certified copy of this Order to the Clerk of the 380<sup>th</sup> District Court of Collin County, Texas at

A TRUE COPY  
CLERK OF SUPERIOR COURT  
ANSON COUNTY  
By W. J. J.  
Assistant Deputy, Clerk Superior Court

the Collin County Courthouse, McKinney, Texas.

Signed this the 26 day of Sept 2007.

  
\_\_\_\_\_  
Judge Presiding

Superior Court,  
County of Anson  
State of North Carolina



IN THE SUPERIOR COURT  
204 JUDICIAL DISTRICT  
COUNTY OF ANSON  
STATE OF NORTH CAROLINA

In the matter of a Petition for  
Hearing "Pursuant to the Uniform Act  
To Secure Attendance of Witnesses from  
Without a State" regarding the attendance of  
Jeremy Wilson, Marty Cox, Frank Thuleen,  
Harrison Whitley, Raymond W. Harrison,  
Pamela Allen, Jessie McDonald, Kevin Tuttle,  
Lawrence Parsons, Mike Pittman in the matter of  
State of Texas v. Kosoul Chanthakoummane,  
No. 380-81972-07 (In the 380<sup>th</sup> District Court  
of Collin County, Texas)

FILED  
2007 SEP 26 P 3:55  
ANSON COUNTY, CSC  
No. 07-C-45 498

ORDER TO APPEAR IN TEXAS

On this day JESSIE McDONALD appeared in person in response to the Order of the Court to show cause why the Court should not order the said person to appear and testify in the County of Collin County and State of Texas in a criminal prosecution there pending in Cause Number 380-81972-07 in the 380<sup>th</sup> District Court, styled "State of Texas vs. Kosoul Chanthakoummane, and having heard the evidence and considered the Certificate from the Charles Sandoval, Judge of the 380<sup>th</sup> District Court of Collin County, State of Texas, the Court is of the opinion that the said JESSIE McDONALD is a material and necessary witness in the said criminal prosecution and that it will not cause an undue hardship on the said witness to appear in Texas and testify in the said cause.

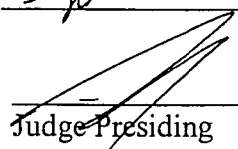
IT IS, THEREFORE, ORDER AND DECREED that the said JESSIE McDONALD is to appear before the 380<sup>TH</sup> District Court of Collin County, Texas at the Courthouse in the City of McKinney, Texas on the 14<sup>th</sup> day of October, 2007 at 9:00 o'clock A.M. then and there to testify in the above criminal prosecution there pending.

IT IS THE FURTHER ORDER of the Court that a copy of this Order duly certified by the Clerk of the Court be delivered to the said witness, and further that the Clerk of the Court deliver a certified copy of this Order to the Clerk of the 380<sup>th</sup> District Court of Collin County, Texas at

A TRUE COPY  
CLERK OF SUPERIOR COURT  
ANSON COUNTY  
By W. J. H.  
Assistant Deputy Clerk Superior Court

the Collin County Courthouse, McKinney, Texas.

Signed this the 26 day of Sept 2007.

  
\_\_\_\_\_  
Judge Presiding

Superior Court,  
County of Anson  
State of North Carolina

IN THE SUPERIOR COURT  
20A JUDICIAL DISTRICT  
COUNTY OF ANSON  
STATE OF NORTH CAROLINA

In the matter of a Petition for  
Hearing "Pursuant to the Uniform Act  
To Secure Attendance of Witnesses from  
Without a State" regarding the attendance of  
Jeremy Wilson, Marty Cox, Frank Thuleen,  
Harrison Whitley, Raymond W. Harrison,  
Pamela Allen, Jessie McDonald, Kevin Tuttle,  
Lawrence Parsons, Mike Pittman in the matter of  
State of Texas v. Kosoul Chanthakoummane,  
No. 380-81972-07 (In the 380<sup>th</sup> District Court  
of Collin County, Texas)

FILED  
2007 SEP 26 P 3:55  
ANSON COUNTY, CSC  
BY \_\_\_\_\_  
No. 07 Cvs 498

### ORDER TO APPEAR IN TEXAS

On this day JEREMY WILSON appeared in person in response to the Order of the Court to show cause why the Court should not order the said person to appear and testify in the County of Collin County and State of Texas in a criminal prosecution there pending in Cause Number 380-81972-07 in the 380<sup>th</sup> District Court, styled "State of Texas vs. Kosoul Chanthakoummane, and having heard the evidence and considered the Certificate from the Charles Sandoval, Judge of the 380<sup>th</sup> District Court of Collin County, State of Texas, the Court is of the opinion that the said JEREMY WILSON is a material and necessary witness in the said criminal prosecution and that it will not cause an undue hardship on the said witness to appear in Texas and testify in the said cause.

IT IS, THEREFORE, ORDER AND DECREED that the said JEREMY WILSON is to appear before the 380<sup>TH</sup> District Court of Collin County, Texas at the Courthouse in the City of McKinney, Texas on the 14<sup>th</sup> day of October, 2007 at 9:00 o'clock A.M. then and there to testify in the above criminal prosecution there pending.

IT IS THE FURTHER ORDER of the Court that a copy of this Order duly certified by the Clerk of the Court be delivered to the said witness, and further that the Clerk of the Court deliver a certified copy of this Order to the Clerk of the 380<sup>th</sup> District Court of Collin County, Texas at

**A TRUE COPY**  
CLERK OF SUPERIOR COURT  
ANSON COUNTY  
By W. J.  
Assistant Deputy, Clerk Superior Court

the Collin County Courthouse, McKinney, Texas.

Signed this the 26 day of sept 2007.

  
\_\_\_\_\_  
Judge Presiding

Superior Court,  
County of Anson  
State of North Carolina

IN THE SUPERIOR COURT  
20A JUDICIAL DISTRICT  
COUNTY OF ANSON  
STATE OF NORTH CAROLINA

In the matter of a Petition for  
Hearing "Pursuant to the Uniform Act  
To Secure Attendance of Witnesses from  
Without a State" regarding the attendance of  
Jeremy Wilson, Marty Cox, Frank Thuleen,  
Harrison Whitley, Raymond W. Harrison,  
Pamela Allen, Jessie McDonald, Kevin Tuttle,  
Lawrence Parsons, Mike Pittman in the matter of  
State of Texas v. Kosoul Chanthakoummane,  
No. 380-81972-07 (In the 380<sup>th</sup> District Court  
of Collin County, Texas)

FILED  
2007 SEP 26 P 3:34  
ANSON COUNTY, NC  
BY  
No. 07 CVS 498

**ORDER TO APPEAR IN TEXAS**

On this day HARRISON WHITLEY appeared in person in response to the Order of the Court to show cause why the Court should not order the said person to appear and testify in the County of Collin County and State of Texas in a criminal prosecution there pending in Cause Number 380-81972-07 in the 380<sup>th</sup> District Court, styled "State of Texas vs. Kosoul Chanthakoummane, and having heard the evidence and considered the Certificate from the Charles Sandoval, Judge of the 380<sup>th</sup> District Court of Collin County, State of Texas, the Court is of the opinion that the said HARRISON WHITLEY is a material and necessary witness in the said criminal prosecution and that it will not cause an undue hardship on the said witness to appear in Texas and testify in the said cause.

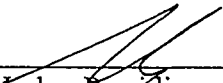
IT IS, THEREFORE, ORDER AND DECREED that the said HARRISON WHITLEY is to appear before the 380<sup>TH</sup> District Court of Collin County, Texas at the Courthouse in the City of McKinney, Texas on the 14<sup>th</sup> day of October, 2007 at 9:00 o'clock A.M. then and there to testify in the above criminal prosecution there pending.

IT IS THE FURTHER ORDER of the Court that a copy of this Order duly certified by the Clerk of the Court be delivered to the said witness, and further that the Clerk of the Court deliver a certified copy of this Order to the Clerk of the 380<sup>th</sup> District Court of Collin County, Texas at

**A TRUE COPY**  
**CLERK OF SUPERIOR COURT**  
**ANSON COUNTY**  
By W. H.  
Assistant Deputy, Clerk Superior Court

the Collin County Courthouse, McKinney, Texas.

Signed this the 26 day of Sept 2007.

  
\_\_\_\_\_  
Judge Presiding

Superior Court,  
County of Anson  
State of North Carolina

IN THE SUPERIOR COURT  
20A JUDICIAL DISTRICT  
COUNTY OF ANSON  
STATE OF NORTH CAROLINA

In the matter of a Petition for  
Hearing "Pursuant to the Uniform Act  
To Secure Attendance of Witnesses from  
Without a State" regarding the attendance of  
Jeremy Wilson, Marty Cox, Frank Thuleen,  
Harrison Whitley, Raymond W. Harrison,  
Pamela Allen, Jessie McDonald, Kevin Tuttle,  
Lawrence Parsons, Mike Pittman in the matter of  
State of Texas v. Kosoul Chanthakoummane,  
No. 380-81972-07 (In the 380<sup>th</sup> District Court  
of Collin County, Texas)

FILED  
2007 SEP 26 P 3:55  
ANSON COUNTY, CSC  
BY \_\_\_\_\_  
No. 07 CUS 498

**ORDER TO APPEAR IN TEXAS**

On this day KEVIN TUTTLE appeared in person in response to the Order of the Court to show cause why the Court should not order the said person to appear and testify in the County of Collin County and State of Texas in a criminal prosecution there pending in Cause Number 380-81972-07 in the 380<sup>th</sup> District Court, styled "State of Texas vs. Kosoul Chanthakoummane, and having heard the evidence and considered the Certificate from the Charles Sandoval, Judge of the 380<sup>th</sup> District Court of Collin County, State of Texas, the Court is of the opinion that the said KEVIN TUTTLE is a material and necessary witness in the said criminal prosecution and that it will not cause an undue hardship on the said witness to appear in Texas and testify in the said cause.

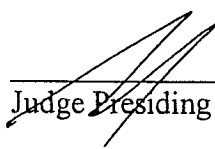
IT IS, THEREFORE, ORDER AND DECREED that the said KEVIN TUTTLE is to appear before the 380<sup>TH</sup> District Court of Collin County, Texas at the Courthouse in the City of McKinney, Texas on the 14<sup>th</sup> day of October, 2007 at 9:00 o'clock A.M. then and there to testify in the above criminal prosecution there pending.

IT IS THE FURTHER ORDER of the Court that a copy of this Order duly certified by the Clerk of the Court be delivered to the said witness, and further that the Clerk of the Court deliver a certified copy of this Order to the Clerk of the 380<sup>th</sup> District Court of Collin County, Texas at

**A TRUE COPY**  
**CLERK OF SUPERIOR COURT**  
**ANSON COUNTY**  
By W. H.  
Assistant Deputy Clerk Superior Court

the Collin County Courthouse, McKinney, Texas.

Signed this the 26 day of sept 2007.

  
\_\_\_\_\_  
Judge Presiding

Superior Court,  
County of Anson  
State of North Carolina



IN THE SUPERIOR COURT  
20A JUDICIAL DISTRICT  
COUNTY OF ANSON  
STATE OF NORTH CAROLINA

In the matter of a Petition for  
Hearing "Pursuant to the Uniform Act  
To Secure Attendance of Witnesses from  
Without a State" regarding the attendance of  
Jeremy Wilson, Marty Cox, Frank Thuleen,  
Harrison Whitley, Raymond W. Harrison,  
Pamela Allen, Jessie McDonald, Kevin Tuttle,  
Lawrence Parsons, Mike Pittman in the matter of  
State of Texas v. Kosoul Chanthakoummane,  
No. 380-81972-07 (In the 380<sup>th</sup> District Court  
of Collin County, Texas)

FILED  
2007 SEP 26 P 3:56  
ANSON COUNTY, CSC  
BY \_\_\_\_\_  
No. 07 CVS 998

**ORDER TO APPEAR IN TEXAS**

On this day FRANK THULEEN appeared in person in response to the Order of the Court to show cause why the Court should not order the said person to appear and testify in the County of Collin County and State of Texas in a criminal prosecution there pending in Cause Number 380-81972-07 in the 380<sup>th</sup> District Court, styled "State of Texas vs. Kosoul Chanthakoummane, and having heard the evidence and considered the Certificate from the Charles Sandoval, Judge of the 380<sup>th</sup> District Court of Collin County, State of Texas, the Court is of the opinion that the said FRANK THULEEN is a material and necessary witness in the said criminal prosecution and that it will not cause an undue hardship on the said witness to appear in Texas and testify in the said cause.

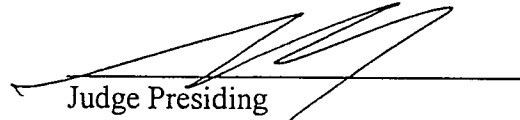
IT IS, THEREFORE, ORDER AND DECREED that the said FRANK THULEEN is to appear before the 380<sup>TH</sup> District Court of Collin County, Texas at the Courthouse in the City of McKinney, Texas on the 14<sup>th</sup> day of October, 2007 at 9:00 o'clock A.M. then and there to testify in the above criminal prosecution there pending.

IT IS THE FURTHER ORDER of the Court that a copy of this Order duly certified by the Clerk of the Court be delivered to the said witness, and further that the Clerk of the Court deliver a certified copy of this Order to the Clerk of the 380<sup>th</sup> District Court of Collin County, Texas at

**A TRUE COPY**  
**CLERK OF SUPERIOR COURT**  
**ANSON COUNTY**  
By W. A.  
Assistant Deputy, Clerk Superior Court

the Collin County Courthouse, McKinney, Texas.

Signed this the 26 day of sept 2007.

  
\_\_\_\_\_  
Judge Presiding

Superior Court,  
County of Anson  
State of North Carolina

IN THE SUPERIOR COURT  
20A JUDICIAL DISTRICT  
COUNTY OF ANSON  
STATE OF NORTH CAROLINA

In the matter of a Petition for  
Hearing "Pursuant to the Uniform Act  
To Secure Attendance of Witnesses from  
Without a State" regarding the attendance of  
Jeremy Wilson, Marty Cox, Frank Thuleen,  
Harrison Whitley, Raymond W. Harrison,  
Pamela Allen, Jessie McDonald, Kevin Tuttle,  
Lawrence Parsons, Mike Pittman in the matter of  
State of Texas v. Kosoul Chanthakoummane,  
No. 380-81972-07 (In the 380<sup>th</sup> District Court  
of Collin County, Texas)

FILED  
2007 SEP 26 3:54  
ANSON COUNTY  
CSC  
BY \_\_\_\_\_  
No. 07 C-5 998

**ORDER TO APPEAR IN TEXAS**

On this day MIKE PITTMAN appeared in person in response to the Order of the Court to show cause why the Court should not order the said person to appear and testify in the County of Collin County and State of Texas in a criminal prosecution there pending in Cause Number 380-81972-07 in the 380<sup>th</sup> District Court, styled "State of Texas vs. Kosoul Chanthakoummane, and having heard the evidence and considered the Certificate from the Charles Sandoval, Judge of the 380<sup>th</sup> District Court of Collin County, State of Texas, the Court is of the opinion that the said MIKE PITTMAN is a material and necessary witness in the said criminal prosecution and that it will not cause an undue hardship on the said witness to appear in Texas and testify in the said cause.

IT IS, THEREFORE, ORDER AND DECREED that the said MIKE PITTMAN is to appear before the 380<sup>TH</sup> District Court of Collin County, Texas at the Courthouse in the City of McKinney, Texas on the 14<sup>th</sup> day of October, 2007 at 9:00 o'clock A.M. then and there to testify in the above criminal prosecution there pending.

IT IS THE FURTHER ORDER of the Court that a copy of this Order duly certified by the Clerk of the Court be delivered to the said witness, and further that the Clerk of the Court deliver a certified copy of this Order to the Clerk of the 380<sup>th</sup> District Court of Collin County, Texas at

**A TRUE COPY**  
**CLERK OF SUPERIOR COURT**  
**ANSON COUNTY**  
By W. J.  
Assistant Deputy Clerk Superior Court

the Collin County Courthouse, McKinney, Texas.

Signed this the 26 day of Sept 2007.

  
\_\_\_\_\_  
Judge Presiding

Superior Court,  
County of Anson  
State of North Carolina

**OFFICE OF COURT ADMINISTRATION**

TOM C. CLARK STATE COURTS BUILDING  
205 WEST 14<sup>TH</sup> STREET, 6<sup>TH</sup> FLOOR  
AUSTIN, TEXAS 78701

PHONE: 512/463-1625

FAX: 512/936-2423

**FACSIMILE TRANSMISSION**

**DATE:** October 29, 2007  
**TO:** Collin County District Clerk's Office, Criminal Division  
**FAX:** (972) 548-4764  
**FROM:** Angela Garcia  
**RE:** Case No. 380-81972-07: State v. Kosoul Chanthakoummane

**\*Pages Transmitted: 1, including this page**

**Message:**

*Thank you for faxing the judgment and jury charge for sentencing for this case. I am still in need of the jury charge for the determination of guilt or innocence. Would you please fax this document to me at your convenience?*

*Thank you!*

*Angela Garcia  
Judicial Information Manager*

## \*\* Transmit Conf. Report \*\*

P.1

Oct 31 2007 14:31

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DATE: Oct 31 2007NUMBER OF PAGES SENT: 9  
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COMMENTS:

Jury Charge re guilt or innocence on  
State v. Kasoul Chanthakoummone

380-81972-07



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DATE: Oct 31 2007

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COMMENTS:

Jury Charge re guilt or innocence on  
State v. Kasoul Chanthakoummone  
380-81972-07

§ IN THE DISTRICT COURT  
§  
§  
§ 380TH JUDICIAL DISTRICT  
§  
§ COLLIN COUNTY, TEXAS

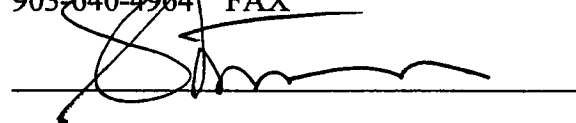
NOV 15 2007  
HARRIS COUNTY  
Clerk District Court, Collin County, Texas  
By Cheryl



WHEREFORE, PREMISES CONSIDERED, the Defendant hereby specifically requests that the Court grant an actual hearing on this Motion in the instant cause and that subsequent to the hearing of said Motion that the Defendant be restored to the position he was in before the trial of this case.

Respectfully submitted,

STEVEN R. MIEARS  
P. O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX



Attorney for KOSOUL  
CHANTHAKOUMMANE

**VERIFICATION**

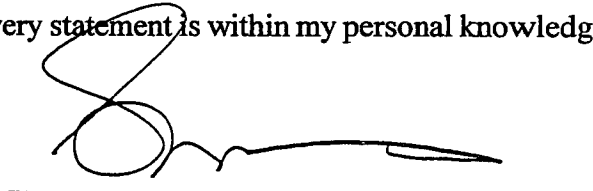
**STATE OF TEXAS,**

**COUNTY OF FANNIN.**

ON THIS DAY personally appeared STEVEN R. MIEARS, who, after being placed under oath, stated the following:

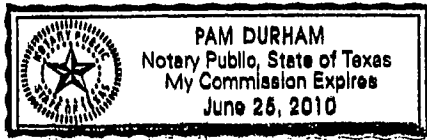
"My name is STEVEN R. MIEARS and I am the Attorney of record for KOSOUL CHANTHAKOUMMANE and have been so at all material times relevant to this proceeding.

"I have read the Motion for New Trial and every statement is within my personal knowledge and is true and correct."



STEVEN R. MIEARS

Sworn to and subscribed before me on the 13<sup>th</sup> day of November, 2007.



Pam Durham  
NOTARY PUBLIC, STATE OF TEXAS

**CERTIFICATE OF PRESENTMENT**

By signature above, I hereby certify that a true and correct copy of the above and foregoing has been ~~hand-delivered~~ <sup>Mailed CMRR</sup> to the Office for the 380th Judicial District Court of COLLIN County, on the 13<sup>th</sup> day of November, 2007.

Steven R. Miears  
STEVEN R. MIEARS

**CERTIFICATE OF SERVICE**

This is to certify that on the 13<sup>th</sup> day of November, 2007, a true and correct copy of the above and foregoing document was served on the District Attorney's Office, Collin County, Texas, by certified mail, return receipt requested.

Steven R. Miears  
STEVEN R. MIEARS

NO. 380-81972-07

STATE OF TEXAS	§	IN THE DISTRICT COURT
VS.	§	380 <sup>TH</sup> JUDICIAL DISTRICT
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

**ORDER**

On \_\_\_\_\_, 2007, came on to be considered KOSOUL  
CHANTHAKOUMMANE's Motion for New Trial and said motion is hereby

(Granted) (Denied)

---

JUDGE PRESIDING

# STEVEN R. MIEARS, P.C.

Board Certified in Criminal Law  
Texas Board of Legal Specialization

## MAILING ADDRESS:

P.O. Box 736  
Bonham, TX 75418

## Bonham, Texas Office:

211 North Main  
Bonham, Texas 75418  
903-640-4963  
903-640-4964 FAX  
E-mail: stevenmieurs@msn.com

November 13, 2007

Via CMRRR # 7007 1490 0000 7862 2492

Ms. Hannah Kunkle  
District Clerk  
Collin County Courthouse  
2100 Bloomdale Rd.  
McKinney, TX 75071

Re: Cause No. 380-81972-07, The State of Texas vs. Kosoul Chanthakoummane

Dear Ms. Kunkle:

Enclosed is Defendant's Motion for New Trial, together with two copies, to be filed in the above referenced matter. Please return the file-marked copies of the motion to my office in the enclosed self-addressed, postage-paid envelope provided for your convenience.

By copy of this letter, I have forwarded a copy of the Motion for New Trial to the office for the 380th Judicial District Court of Collin County, Texas.

A copy of the Motion for New Trial has also been forwarded to the Collin County District Attorney's Office.

Sincerely,

  
Steven Richard Mieurs  
Lawyer

/pd

Enclosures

At **FILED** M

NOV 15 2007

HANNAH KUNKLE  
Clerk District Court Collin County Texas  
By 

Ms. Hannah Kunkle  
District Clerk  
November 13, 2007  
Page 2

Cc: Honorable Charles Sandoval w/encl. *Via CMRRR #7007 1490 0000 7862 2485*  
380<sup>th</sup> Judicial District Court

Cc: Collin County District Attorney w/encl. *Via CMRRR # 7007 1490 0000 7862 5011*

## \*\* Transmit Conf. Report \*\*

P.1

Nov 15 2007 16:30

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Austin TxFROM: DISTRICT CLERK'S OFFICE  
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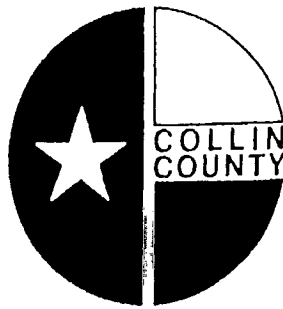
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BY:

C. McCrory  
DEPUTY

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COMMENTS: Motion For New Trial  
380-81972-07Kousouh CHANTHA KoummameFiled 11-15-07



District Clerk  
HANNAH KUNKLE

DATE: Nov. 15 2007

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Court of Criminal Appeals  
Austin Tx

FROM: DISTRICT CLERK'S OFFICE  
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COMMENTS: Motion For New Trial  
380-81972-07

Kousouh CHANTHA KOUUMANE

Filed 11-15-07

# ***STEVEN R. MIEARS, P.C.***

Board Certified in Criminal Law  
Texas Board of Legal Specialization

**MAILING ADDRESS:**

P.O. Box 736  
Bonham, TX 75418

**Bonham, Texas Office:**

211 North Main  
Bonham, Texas 75418  
903-640-4963  
903-640-4964 FAX  
E-mail: [stevenmears@msn.com](mailto:stevenmears@msn.com)

November 13, 2007

**Via CMRRR # 7007 1490 0000 7862 2492**

Ms. Hannah Kunkle  
District Clerk  
Collin County Courthouse  
2100 Bloomdale Rd.  
McKinney, TX 75071

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By copy of this letter, I have forwarded a copy of the Motion for New Trial to the office for the 380th Judicial District Court of Collin County, Texas.

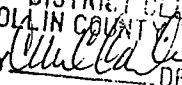
A copy of the Motion for New Trial has also been forwarded to the Collin County District Attorney's Office.

Sincerely,

  
Steven Richard Mears  
Lawyer

/pd

Enclosures

**FILED**  
07 NOV 16 AM 10:05  
HANNAH KUNKLE  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY  DEPUTY



Ms. Hannah Kunkle  
District Clerk  
November 13, 2007  
Page 2

Cc: Honorable Charles Sandoval w/encl. *Via CMRRR #7007 1490 0000 7862 2485*  
380<sup>th</sup> Judicial District Court

Cc: Collin County District Attorney w/encl. *Via CMRRR # 7007 1490 0000 7862 5011*

STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	
vs.	§	380TH JUDICIAL DISTRICT
	§	
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

**MOTION FOR NEW TRIAL**

**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, KOSOUL CHANTHAKOUMMANE, the Defendant in the above-styled and numbered cause, by and through his attorney of record, STEVEN R. MIEARS, and files this Motion for New Trial; and in support thereof would show this Honorable Court as follows:

I.

The Defendant was convicted in the instant case on October 17, 2007 for the offense of capital murder. The Defendant was subsequently sentenced to death by lethal injection. This Motion is timely in that less than 30 days have elapsed since the trial court imposed or suspended sentence in this case.

II.

The Defendant in this case should be granted a new trial in this case because the verdict is contrary to the law and the evidence. Additionally, the Defendant would show the Court erred in failing to grant the Defendant's Motion for Continuance made as a result of the State's re-indictment of the case prior to trial which interjected a new and additional manners and means of causing the victim's death. Defendant was denied the opportunity to investigate any due diligence used by the Grand Jurors to determine the manner and means of death as alleged to be by an unknown object.

**FILED**

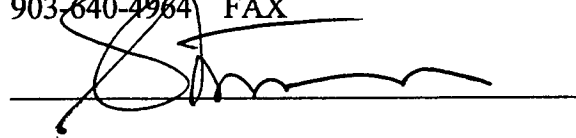
07 NOV 16 AM 10:05

HARRIS COUNTY  
DISTRICT CLERK  
COLLIN COUNTY, TEXAS  
BY *[Signature]* DEPUTY

WHEREFORE, PREMISES CONSIDERED, the Defendant hereby specifically requests that the Court grant an actual hearing on this Motion in the instant cause and that subsequent to the hearing of said Motion that the Defendant be restored to the position he was in before the trial of this case.

Respectfully submitted,

STEVEN R. MIEARS  
P. O. Box 736  
Bonham, TX 75418  
903-640-4963  
903-640-4964 FAX



Attorney for KOSOUL  
CHANTHAKOUMMANE

**VERIFICATION**

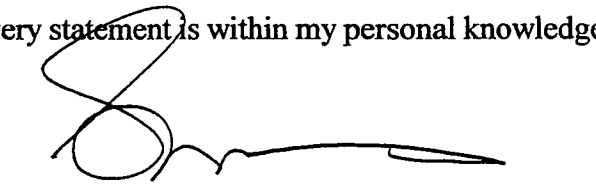
**STATE OF TEXAS,**

**COUNTY OF FANNIN.**

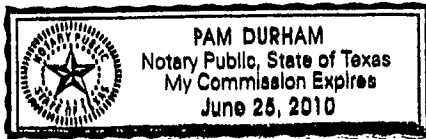
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"I have read the Motion for New Trial and every statement is within my personal knowledge and is true and correct."

  
STEVEN R. MIEARS

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Pam Durham  
NOTARY PUBLIC, STATE OF TEXAS

**CERTIFICATE OF PRESENTMENT**

By signature above, I hereby certify that a true and correct copy of the above and foregoing has  
*Mailed CMRR*  
been ~~hand-delivered~~ to the Office for the 380th Judicial District Court of COLLIN County, on the  
13<sup>th</sup> day of November, 2007.

[Signature]  
STEVEN R. MIEARS

**CERTIFICATE OF SERVICE**

This is to certify that on the 13<sup>th</sup> day of November, 2007, a true and correct copy of the  
above and foregoing document was served on the District Attorney's Office, Collin County, Texas, by  
certified mail, return receipt requested.

[Signature]  
STEVEN R. MIEARS

NO. 380-81972-07

STATE OF TEXAS	§	IN THE DISTRICT COURT
VS.	§	380 <sup>TH</sup> JUDICIAL DISTRICT
KOSOUL CHANTHAKOUMMANE	§	COLLIN COUNTY, TEXAS

**ORDER**

On \_\_\_\_\_, 2007, came on to be considered KOSOUL  
CHANTHAKOUMMANE's Motion for New Trial and said motion is hereby

(Granted) (Denied)

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JUDGE PRESIDING

NO. 380-81972-07

STATE OF TEXAS	§	IN THE DISTRICT COURT
VS.	§	380 <sup>TH</sup> JUDICIAL DISTRICT
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**ORDER**

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JUDGE PRESIDING

NO. 380-81972-07

STATE OF TEXAS	§	IN THE DISTRICT COURT
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**ORDER**

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(Granted) (Denied)

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JUDGE PRESIDING